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Report of the Special Rapporteur on extreme poverty and human rights

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extreme poverty and human rights, Philip Alston, prepared pursuant to Council resolution 26/3. The Special Rapporteur notes that the fundamental values of the international human rights system are under attack in new and diverse ways in 2017. One widely shared explanation is the rapidly growing sense of economic insecurity afflicting large segments of many societies.

The Special Rapporteur suggests that the human rights community has had little to offer in response. Indeed, there is a risk that rather than seeking creative ways in which to address the problem of economic insecurity the human rights system will proceed in zombie mode. It will keep marching straight ahead on the path mapped out long ago, even as the lifeblood drains out of the enterprise.

The report is premised on the view that the human rights movement needs to address and respond to the fundamental changes that are taking place in economic and social structures at the national and global levels. In this setting, one of the most vibrant proposals is to replace or supplement existing social protection systems with a universal basic income ("basic income"). This proposal has recently drawn attention from governments, scholars, and practitioners in various fields. In its comprehensive and ideal form, a basic income is explicitly designed to challenge most of the key assumptions underpinning existing social security systems. Rather than payments being partial, they guarantee a floor; instead of being episodic, payments are regular; rather than being needs-based, they are paid as a flat rate to all; they come in cash, rather than as messy in-kind support; they accrue to every individual, rather than only to needy households; rather than requiring that various conditions be met, they are unconditional; rather than excluding the well off, they are universal; and instead of being based on lifetime contributions, they are funded primarily from taxation. And simplicity of design promises minimal bureaucracy and low administrative costs.

The principal purpose of the report is to reflect on the desirability of advocating a basic income approach to social protection when viewed from the perspective of international human rights law. Basic income offers a bold and imaginative solution to pressing problems that are about to become far more intractable as a result of the directions

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in which the global economy appears inexorably to be heading. While there are many objections, relating to affordability in particular, the concept should not be rejected out of hand on the grounds that it is utopian. In today's world of severe economic insecurity, creativity in social policy is necessary.

The report calls for acknowledgement of the fact that economic insecurity represents a fundamental threat to all human rights. It calls for the rights to work, social security, and an adequate standard of living to be accorded prominence on the human rights agenda. Linked to this is the need to acknowledge the central role of the State, of fair and progressive fiscal policies, and of redistributive justice. Most importantly, the debates over social protection floors and basic income need to be brought together. They have thus far been kept largely separate, in a counterproductive and ultimately self-defeating way.

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I. Introduction[1]

1. The present report is submitted in accordance with Human Rights Council resolution 26/3 and is the third report submitted to the Council by Philip Alston in his capacity as Special Rapporteur on extreme poverty and human rights.

2. The focus of the present report is on the idea of replacing or supplementing existing social protection systems with a universal basic income ("basic income").[2] In recent months, this proposal has drawn increased attention from governments, scholars, and practitioners in a range of different fields, and four major books on the subject have been published in rapid succession.[3] As a report of the Government of India concluded, if "thinkers on both the extreme left and right" have all become basic income supporters, then it is "a powerful idea" which must be discussed seriously, even if that report concludes that the time has not yet come for its implementation.[4] Before exploring the details of the concept and its relationship to human rights, consideration needs to be given to the context in which the proposal has attracted such attention.

3. The fundamental values of the international human rights system are under attack in new and diverse ways in 2017. While competing explanations have been proffered, one that is included in most lists is that there is a rapidly growing sense of economic insecurity afflicting large segments of many societies. There is an increasing feeling of being exposed, vulnerable, overwhelmed and helpless, and of being systematically marginalized, both economically and socially. This situation, which previously seemed to be a fate reserved only for those living in low-income countries or in extreme poverty in high- and middle-income countries, now afflicts not just the unemployed and the underemployed, but also the precariously employed and those likely to be rendered unemployed in the foreseeable future as a result of various developments. Many of these individuals previously enjoyed a modicum of security and respect and felt that they had a stake in the overall system of government. As the new insecurity has ballooned and affected ever-greater numbers, many mainstream political parties have either remained oblivious, or have offered solutions that have only exacerbated the problems, further undermining faith in electoral democracy.

4. The neoliberal policies encapsulated in the 1980s-era Washington Consensus can be seen, especially in retrospect, to have greatly exacerbated economic insecurity, whether or not that was the intent. The State was assumed to be intrinsically inefficient and corruption-prone, and this led to constant pressure to shrink all those parts of it that provided social and basic economic services to the populace, while vindicating and reinforcing the State in its role as the regulator facilitating and legitimizing the privatization of the economy. Social security and social protection was transformed, including through the explicit policies of the World Bank and the International Monetary Fund, into a minimalist notion of "social safety nets" designed to avoid the very worst outcomes and make the State look beneficent while empowering officials dedicated to devising ever more efficient "targeting" mechanisms and to rooting out overinclusion while playing down underinclusion. The objectives of promoting tax reform and prudent fiscal policies turned into a race to the bottom to set the lowest individual and corporate tax rates, attracting businesses through expensive exemptions, turning a blind eye to illegal or unconscionably evasive tax practices, and eliminating estate taxes and other measures that would bring about even minimal redistribution. Privatization was promoted even in relation to what were once seen

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[1] The Special Rapporteur is grateful to Christiaan van Veen and Anna Bulman for their invaluable assistance in the preparation of the report.

[2] The concept is also known as citizen's income, basic income guarantee, and guaranteed annual income.

[3] Philippe van Parijs and Yannick Vanderborght, *Basic Income: A Radical Proposal for a Free Society and a Sane Economy* (Harvard University Press, 2017); Rutger Bregman, *Utopia for Realists: How We Can Build the Ideal World* (Bloomsbury Publishing, 2017); Thomas Straubhaar, *Radikal Gerecht* (Körber Stiftung, 2017); and Andy Stern, *Raising the Floor: How a Universal Basic Income Can Renew Our Economy and Rebuild the American Dream* (Public Affairs, 2016).

[4] Government of India, *Economic Survey 2016-2017* (2017), chap. 9, p. 195.

as basic State functions, such as prisons, education and security. In some States, even the justice system has been partly privatized, whether through onerous court fees for the poor or the channelling of consumer and other complaints into private arbitration.

5. For its part, the human rights community has had all too little to offer in response to the profound challenges associated with deep economic insecurity. The human rights to an adequate standard of living, to work and to social security have been very low on the list of priorities of the major human rights groups and of the principal international and regional human rights organizations, with the exception of the International Labour Organization (ILO). The reasons for this include long-standing arguments that economic issues belong on the agenda of economic rather than human rights bodies, a perception that human rights specialists are not qualified to engage with issues that are presented as technical matters of economic policy, a preference to avoid addressing issues involving redistribution of income or expenditure from a human rights perspective, and the assumption that if civil and political rights are protected, respect for economic and social rights will automatically follow.

6. A related problem in the context of the Human Rights Council is the "siloing" of issues, whereby food, health, education, water, and other rights concerns are dealt with in separate silos that stand side by side but are rarely integrated. The Council debates the reports of the individual special procedures mandate holders sequentially and each mandate holder focuses on one particular piece of a large jigsaw puzzle. But there is rarely an occasion to examine the overall picture.

7. There is a strong risk that when confronted with the challenge of addressing economic insecurity the human rights system will proceed in zombie mode. It will keep marching straight ahead on the path mapped out long ago, even as the lifeblood drains out of the enterprise. Its supervisory and monitoring organs will address themselves ever more insistently to State actors that have made themselves marginal, and they will continue to demand respect for standards that have long since been overtaken by the grim realities of global supply chains. For the most part, the human rights machinery is cumbersome, lacking in agility, and poorly placed to develop new thinking in such contexts. But it will need to do so if it is to remain relevant.

8. The present report is premised on the view that the human rights movement needs to address and respond to the fundamental changes that are taking place in economic and social structures at the national and global levels. These include, among others:

(a) The increasingly precarious nature of employment in the age of Uber, Airbnb, outsourcing, subcontracting, zero-hours contracts and the like;

(b) The fact that traditional forms of labour market regulation are becoming ever less relevant to the emerging economy, and that an insistence on their continuing normative validity, however strongly justified, is increasingly impotent in the face of the evolution of global supply chains and other developments based on worker insecurity;

(c) The likelihood that vast swathes of the existing workforce will be made redundant by increasing automation and robotization, accompanied by the ever-greater concentration of wealth in the hands of the technology elites and the owners of capital;

(d) The rapid and seemingly unstoppable growth in inequality across the globe, captured by Oxfam's statistic that the richest 1 per cent of humanity already controls as much wealth as the remaining 99 per cent,[5] and by the detailed national-level economic analyses of Thomas Piketty and others;[6]

(e) The ascent of a new neoliberal agenda, which involves further fetishization of low tax rates, demonization of the administrative State, deregulation as a matter of

[5] Oxfam, "An economy for the 99%", briefing paper, January 2017.

[6] Thomas Piketty, Emmanuel Saez and Gabriel Zucman, "Distributional national accounts: methods and estimates for the United States", National Bureau of Economic Research working paper series, Working Paper No. 22945 (2016).

principle, and the privatization of remaining State responsibilities in the social sector, risks leaving the State in no position to protect or promote social rights meaningfully.

II. Introducing basic income

A. Characteristics of a full basic income

9. In its comprehensive and ideal form, a basic income is explicitly designed to challenge most of the key assumptions underpinning existing social security systems. Rather than a system where there are partial payments, basic income guarantees a floor; instead of being episodic, payments are regular; rather than being needs-based, they are paid as a flat rate to all; they come in cash, rather than as messy in-kind support; they accrue to every individual, rather than only to needy households; rather than requiring that various conditions be met, they are unconditional; rather than excluding the well off, they are universal; and instead of being based on lifetime contributions, they are funded primarily from taxation. And simplicity of design promises minimal bureaucracy and low administrative costs.

Guaranteed floor

10. The income is "basic" in the sense that it is designed to guarantee a "floor" on which every recipient can stand.[7] Because people's needs are highly individualized and context-dependent, the amount that any specific individual requires will depend on factors such as local housing and living costs, the person's health status, and whether there is any form of support network in place. But in its pure form, basic income would generally be assumed to be a uniform amount, which does not reflect those differentials. There are, however, different versions of the concept that envisage adjusting the amount over time, providing less money for children and more for the elderly, or adjusting for geography.[8] The basis on which the floor is calculated and the amount to be paid will, of course, vary greatly from one country to another. Thus, while a national referendum on basic income in Switzerland proposed a payment of SwF 2,500 per month per adult, a South African initiative envisages a grant of US$15 per person per month, indexed to inflation.[9]

Regular payments

11. Under a basic income system, regular payments would be made to recipients, for example on a monthly basis. Predictability and continuity ensure that redistributive and poverty-reducing goals are met, whereas one-time only payments or lump sums do not ensure a consistent floor.

Cash

12. Basic income is intended as a cash grant; not as in-kind support such as food, vouchers or shelter. This means that individuals must have a means by which to receive the income, such as a bank account, or a cell phone capable of managing electronic payments. This might be problematic where neither banking infrastructure nor cell phone coverage are strong, and will also be difficult for groups such as the homeless, people fleeing domestic violence, and persons with psychosocial disabilities.[10]

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[7] Van Parijs and Vanderborght, *Basic Income*, p. 9.

[8] Ibid., pp. 10 and 11.

[9] "Towards A SADC-wide basic income grant: where are we now". Available from http://spii.org.za/sadcbigcampaign/wp-content/uploads/2016/08/SADC-BIG-Newsletter-Issue-1-2016.pdf.

[10] See, for example, James P. Mulvale and Sid Frankel, "Next steps on the road to basic income in Canada", *Journal of Sociology and Social Welfare*, vol. 43, No. 3 (2016), pp. 27-50, citing on p. 41 Jurgen De Wispelaere and Lindsay Stirton, "The politics of unconditional basic income: bringing bureaucracy back in", *Political Studies*, vol. 61, No. 4 (2013), p. 915.

Individual

13. Whereas many aspects of existing social protection systems flow to the household, basic income would go directly to each individual. Some proposals do, however, diverge from this principle and envisage reduced payments which take account of the overall family or household situation.

Unconditional

14. The absence of conditionality is a key dimension for most basic income proponents. This means that no conditions, such as children's attendance at school or proof of job searches, must be met before the income is paid. People are thus not compelled to accept unpleasant or unattractive jobs. The latter would be filled either by machines, or by people attracted by a higher pay level.[11]

Universal

15. A full basic income is considered a universal entitlement that is automatically paid ex ante to all in a society, regardless of income, wealth, age and gender. It does not require means testing and is not restricted to specific categories of recipients. This idea is troubling to many, who question why the "haves" should receive as much as the "have nots". Common responses are that any form of means testing to determine eligibility requires a large and inefficient bureaucracy to evaluate claims, creates a burden on disadvantaged people to prove their financial need, stigmatizes the target group, and undermines the freedom to not work — as compared to means-tested welfare that is reduced as people work and earn more. One option for retaining universality but responding to this unfairness critique is a progressive taxation system that effectively takes back much of the basic income payment from high earners. Some challenge the viability of that approach in a world in which elite tax avoidance and evasion schemes are rife.[12]

16. The universality dimension is often assumed to apply only to citizens or those with a minimum period of legal residence in the country, although some schemes require only fiscal residence. These limits raise important questions in terms of migrant workers, undocumented workers and asylum seekers.

B. A brief history of the concept

17. Proposals for a form of basic income have been floated by thinkers for centuries.[13] Proponents of the idea trace its historical origins back to Sir Thomas More's *Utopia* (1516), Johannes Vives's *On Assistance to the Poor* (1526), and the works of the Marquis de Condorcet, Charles Fourier, Victor Considerant, John Stuart Mill, Bertrand Russell, George Cole, Herbert Simon, and various other political scientists, economists, and public intellectuals. Perhaps the most detailed and specific early set of plans for basic income and related social protection arrangements was put forward by Thomas Paine, a key figure in both the French and American revolutions, in *The Rights of Man* (1792) and Agrarian Justice (1797).

18. In the United Kingdom, basic income proposals were prominent in the period after both world wars. In 1918, Bertrand Russell called for an income for all, sufficient to pay for "necessaries" in post-First World War Britain.[14] And when the Beveridge plan was being

[11] See, for example, Van Parijs and Vanderborght, *Basic Income*, p. 22.

[12] Francine Mestrum, "Why basic income can never be a progressive solution", 14 April 2016. Available from https://www.socialeurope.eu/2016/04/basic-income-can-never-progressive-solution/.

[13] For summaries on the history of basic income, see Michael Tanner, "The pros and cons of a guaranteed national income (Cato Institute, 12 May 2015), p. 4; Van Parijs and Vanderborght, *Basic Income: A Radical Proposal for a Free Society and a Sane Economy*, chap. 4; and "History of basic income", available from http://basicincome.org/basic-income/history/.

[14] Bertrand Russell, *Roads to Freedom: Socialism, Anarchism and Syndicalism* (Unwin, 1918), p. 127.

debated in 1943, Juliet Rhys-Williams proposed a basic income approach instead of Beveridge's contributory welfare state plan.[15]

19. In the United States of America in the 1960s, Milton Friedman advocated a negative income tax, a concept that bears a close resemblance to a basic income.[16] In the late 1960s, Martin Luther King Jr. called for a guaranteed income as the solution to poverty. And by the end of that decade, Richard Nixon, the then President, came close to implementing a universal income supplement, but the scheme was defeated in the Senate by conservatives who thought the programme was too expensive and by liberals who thought the benefit was too low.

C. The twenty-first century resurgence

20. In recent years, there has been a strong resurgence in support for the idea of a basic income. Its advocates include philosophers, economists, politicians, Silicon Valley entrepreneurs, trade union leaders, futurists and others, and in addition to concerted promotional efforts by civil society groups, support has come from within governments in countries as diverse as Finland and India. Most strikingly, basic income proponents come from many different positions on the political spectrum, ranging from libertarians to socialists.

21. Scholars from different disciplines have played a key role in debating the merits of the concept and it is appropriate to undertake a brief review of their contributions. The most active proponent is a Belgian philosopher, Philippe van Parijs. In a highly influential paper in 1991 he focused on the fairness of making basic income unconditional, thus making it available even to those who opt to spend their life surfing waves.[17] Invoking the philosophy of John Rawls, he argued that "a defensible liberal theory of justice, that is, one that is truly committed to an equal concern for all and to non-discrimination among conceptions of the good life, does justify, under appropriate factual conditions, a substantial unconditional basic income".[18] Others have strongly contested this element in the case for a basic income.[19] In a recent book, Van Parijs and Vanderborght go beyond the philosophical dimensions to explore the concept's history, economic justifications and politics.[20]

22. While Van Parijs and Vanderborght write in the liberal-egalitarian tradition,[21] basic income also has strong support from libertarians. Matt Zwolinski argues that in order to justify the system of property rights, it is necessary, as John Locke wrote, to leave "enough, and as good, in common for others".[22] Thus, a State-financed social safety net might be necessary. For that purpose, a basic income scheme would be preferable to the welfare state because the latter incentivizes wasteful competition among interest groups and is costly and invasive.[23] He avoids addressing questions of the design and implementation of a basic income system but is supportive of the approach developed by another libertarian, Charles Murray.[24]

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[15] Juliet Rhys-Williams, *Something to Look Forward To: A Suggestion for a New Social Contract* (Macdonald, 1943); and Sir William Beveridge, *Social Insurance and Allied Services*, HMSO Cmnd 6404 (1942).

[16] Discussed further in part III, section A, below.

[17] Philippe van Parijs, "Why surfers should be fed: the liberal case for an unconditional basic income", *Philosophy and Public Affairs* (spring 1991), p. 101.

[18] Ibid., p. 102.

[19] David Piachaud, "Citizen's income: rights and wrongs" (Centre for Analysis of Social Exclusion, London School of Economics, 2016).

[20] Van Parijs and Vanderborght, *Basic Income*.

[21] Ibid., p. 109.

[22] Matt Zwolinski, "Property rights, coercion, and the welfare state", *The Independent Review* (spring 2015), p. 519.

[23] Ibid., pp. 524-526.

[24] Ibid., p. 527.

23. Murray's principal book is entitled *In Our Hands: A Plan to Replace the Welfare State*.[25] He calls for a "guaranteed income" to replace the welfare state which he sees as degrading "the traditions of work, thrift and neighbourliness" while also spawning "social and economic problems that it is powerless to solve". He rails against the "new cultural consensus" produced by the welfare state, which considers that "the purpose of life is to while away the time between birth and death as pleasantly as possible, and the purpose of government is to make that process as easy as possible". He argues that a satisfying human life "requires being enmeshed in the stuff of life", and that by "stripping the institutions of family and community of many of their functions and responsibilities", the welfare state "drains too much of the life from life". Replacing the welfare state by a basic income would restore the community to its place as "the locus within which human needs must be met, and the effects could be profound".[26]

24. Further support for the theory comes from the Cato Institute, a libertarian think tank in Washington, D.C., which reviews the support given to basic income by free-market and libertarian thinkers such as Friedrich Hayek, Milton Friedman, Robert Nozick, Charles Murray and Matt Zwolinski. Its view is that while the idea may look good on paper, the "further one moves from theory to implementation, the more the theoretical advantages dissipate".[27] The main objection is affordability, since a universal basic income scheme "would cost far more than the current welfare system".[28]

25. Some authors on the left of the political spectrum have been enthusiastic supporters of basic income. Guy Standing, a labour economist, has popularized the notion of a "precariat", a very large segment of the population, whose lives are "dominated by insecurity, uncertainty, debt and humiliation. They are becoming denizens rather than citizens, losing cultural, civil, social, political and economic rights built up over generations". He argues that in an ever more unequal society, the precariat's relative deprivation is severe.[29] According to Standing, a basic income would allow people to move in and out of the labour market more easily and would "enable citizens to accept low wages and to bargain more strongly".[30] Standing has also been involved in important pilot projects in India.[31]

26. Philosophers on the left, such as Kathi Weeks, have defended basic income from an autonomist Marxist perspective, arguing that it "attempts to address ... the realities of post-Fordist work, to offer a measure of security in an economy of precariousness".[32] The philosopher Michael Howard supports basic income, claiming that it is not incompatible with Marxism or socialism and should be combined with strategies for full employment.[33] But others on the left have been critical. Alex Gourevitch argues that basic income is neither a necessary nor a sufficient condition for eliminating authoritarian work conditions, which he sees as the biggest challenge.[34]

27. Broader political support is suggested by former United States Secretary of Labor Robert Reich, who suggests that basic income could possibly be financed out of the profits coming from labour-replacing innovations, or perhaps even from a revenue stream

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[25] See https://www.aei.org/scholar/charles-murray/.

[26] Charles Murray, "Guaranteed income as a replacement for the welfare state" (The Foundation for Law, Justice and Society), p. 7.

[27] Tanner, "The pros and cons of a guaranteed national income", p. 15.

[28] Ibid., p. 26.

[29] Guy Standing, *The Precariat: The New Dangerous Class* (Bloomsbury Academic, 2011), pp. 10 and 11.

[30] Ibid., p. 178.

[31] Sarath Davala, Renana Jhabvala, Soumya Kapoor Mehta and Guy Standing, *Basic Income: A Transformative Policy for India* (Bloomsbury Academic, 2015).

[32] Kathi Weeks, *The Problem with Work: Feminism, Marxism, Antiwork Politics, and Postwork Imaginaries* (Duke University Press, 2011), p. 150.

[33] Michael Howard, "Basic income, liberal neutrality, socialism, and work", *Review of Social Economy* (December 2005), p. 613.

[34] Alex Gourevitch, "The limits of a basic income: means and ends of workplace democracy", *Basic Income Studies*, vol. 11, No. 1 (2016), p. 17.

generated by the underlying intellectual property.[35] And a book by the former President of the Service Employees International Union, Andy Stern, also calls for a universal basic income to address a new economy characterized by high unemployment, stagnant wages, declining trade union power, and decreasing job security.[36]

28. Van Parijs and Vanderborght acknowledge, however, that while Green parties in Europe and the United States are generally supportive of basic income, the concept does not draw strong support from socialist, Christian Democrat or liberal parties.[37]

29. Perhaps the principal promoter of the concept has been the Basic Income Earth Network. This organization was founded in 1986 by researchers and trade unionists linked to the Catholic University of Louvain, in Belgium. It was originally the Basic Income European Network, but changed its name in 2004. It consists predominantly of scholars based in Europe and the United States.

30. Strong support has also come from technology entrepreneurs. According to media reports, the venture capitalist Marc Andreessen, the web guru Tim O'Reilly, and "a cadre of other Silicon Valley denizens have expressed support for" basic income, calling it the "social vaccine of the twenty-first century".[38] Sam Altman, the president of Y Combinator, the largest start-up "accelerator" in Silicon Valley, is funding a basic income pilot scheme in Oakland, California.[39] He believes that "people should be as free as possible to get 'as rich as they ... want', so long as the people at the very bottom still have all their basic needs met".[40] GiveDirectly, funded in part by Google, also seeks to finance basic income experiments in East Africa.[41] Comments made by many of these entrepreneurs suggest that basic income is seen as a way to sustain and legitimize a world in which employment opportunities will be drastically reduced and to reinforce consumer demand which would be greatly weakened without a broad-based minimum redistribution of income.

D. Forms of basic income

31. While the present report has thus far addressed a more or less generic approach to basic income, the reality is that there are a great many variations on the theme and that trying to distinguish them from one another, and then from other social protection schemes, is a major challenge. Following the analysis of David Piachaud, it is helpful to divide the various proposals into four different types:[42]

(a) A bonus basic income is akin to a royalty scheme in which resource-based dividends are distributed directly to citizens annually. Funding comes directly from an external source, such as mineral royalties. Thus, the Alaska Permanent Fund annually distributes dividends from investment earning on mineral royalties to people who have lived in Alaska for at least a year and intend to remain there indefinitely.[43] Some commentators consider this to be a poor example of basic income, because it is

[35] Robert Reich, "Why we'll need a universal basic income," 29 September 2016. Available from http://robertreich.org/post/151111696805.

[36] Stern, *Raising the Floor*.

[37] Van Parijs and Vanderborght, *Basic Income*, pp. 193-203.

[38] Jathan Sadowski, "Why Silicon Valley is embracing universal basic income," *The Guardian*. Available from https://www.theguardian.com/technology/2016/jun/22/silicon-valley-universal-basic-income-y-combinator.

[39] Julie Carrie Wong, "'Fund it, not run it': big tech's universal basic income project has its sceptics", *The Guardian*. Available from https://www.theguardian.com/us-news/2016/jun/20/y-combinator-oakland-universal-basic-income-pilot-project.

[40] Chris Weller, "The inside story of one man's mission to give Americans unconditional free money", *Business Insider*, 27 June 2016. Available from www.businessinsider.com/inside-y-combinators-basic-income-project-2016-6.

[41] "Launch a basic income" (GiveDirectly), available from www.givedirectly.org/basic-income.

[42] Piachaud, "Citizen's income: rights and wrongs", pp. 1-4.

[43] In 2016, the dividend was $1,022. Alaska Department of Revenue, Permanent Fund Dividend Division, Summary of Dividend Applications and Payments. See http://pfd.alaska.gov/Division-Info/Summary-of-Applications-and-Payments.

predistributive as opposed to redistributive, and involves a small sum and a fluctuating level of payment.[44]

(b) A partial basic income is limited, such as to a particular group of recipients. For example, the Netherlands and New Zealand both have universal basic pensions, under which all persons above a certain age receive an income without means testing.[45]

(c) A supplemental basic income involves the introduction of a modest basic income alongside the existing social security system. Some commentators do not distinguish between partial and supplemental income. A Finnish pilot project, for example, describes partial income as involving a level of benefit that is "substantially lower" and not aiming to replace other current transfers "to the same extent as in full basic income".[46]

Partial and supplemental basic income approaches can also overlap. The Finnish pilot provides €560 over a two-year period (2017-2018) to some 1,500 randomly selected individuals who are aged between 25 and 58 years and are already receiving a labour market subsidy or basic unemployment allowance.[47] The payment is automatic, unconditional and not means-tested. Consistent with Van Parijs's approach, the basic income payment substitutes only for existing benefits that are lower than it.[48] It can therefore be cumulated with existing earnings-related benefits and housing allowances.

Thus, the Finnish model is partial in the sense that it has been targeted at a specific recipient group on the basis of age and income, and it is supplemental in the sense that it does not completely replace the existing social security system. The preliminary report concluded that the deficiencies of the partial basic income are that it would not substantially change the current system or reduce bureaucracy, it would not solve incentive problems arising from a generous housing allowance, and it is a low amount, especially for single parents.[49]

(d) A full basic income involves the characteristics set out above in part II, section A — namely an income that is basic, individual, cash, regular, universal and unconditional. Nowhere in the world has such a scheme yet been implemented.

One was considered in Finland, at a level of €1,000 per month, but concern was expressed about "possible work disincentives, conflicts with earnings-related unemployment security, political controversies, high costs, regional differences in housing costs and possibly the lack of legitimacy", with the level "too high for some groups and too low for the others".[50]

III. Similarities and differences with other schemes

A. Negative income tax

32. Negative income taxes, inspired by the work of Milton Friedman, ensure that individuals who earn below a certain threshold receive payments from the government, rather than having to pay taxes. It is similar to basic income in that every citizen is automatically and unconditionally eligible, but it differs from the full basic income in that benefits phase out as incomes rise. Amounts may also be adjusted for households.

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[44] Jurgen De Wispelaere, "Basic income in our time: improving political prospects through policy learning?", *Journal of Social Policy*, vol. 45, No. 4 (2016), pp. 622-626.

[45] Van Parijs and Vanderborght, *Basic Income*, pp. 159 and 160.

[46] "From idea to experiment: report on universal basic income experiment in Finland" (Kela, 2016), p. 24.

[47] "Objectives and implementation of the basic income experiment" (Kela, modified 13 January 2017), available from www.kela.fi/web/en/basic-income-objectives-and-implementation; and "Who can get a basic income?" (Kela, modified 28 December 2016), available from www.kela.fi/web/en/basic-income-who-can-get.

[48] Van Parijs and Vanderborght, *Basic Income*, p. 12.

[49] "From idea to experiment", p. 37.

[50] Ibid., p. 24.

B. Global basic income

33. The concept of a basic income on a global scale has attracted little scholarly attention, but at least two organizations, the Global Basic Income Foundation and World Basic Income, are promoting it.[51] According to the latter, a global basic income would be a "global scheme that gathers and redistributes money, in amounts ranging from a few dollars to over $2,000 per month, depending on circumstances".[52] The long-term goal is redistribution of wealth and natural resources through "collective shareholdings in global companies, international taxes such as a carbon tax or financial transaction tax, royalties on goods like intellectual property or the extraction of natural resources, or fees for the use of shared goods, such as charging airlines a fee for using our shared airspace".[53] The present report does not seek to examine the feasibility or otherwise of such an approach.

C. The welfare state

34. All developed societies have welfare states in one or other of the three principal forms. First, welfare for the poor in the form of non-contributory means-tested programmes. Second, social insurance, social rights and social services, which include a wide array of institutions from contributory pension and unemployment schemes to public education and health insurance. Third, and the least familiar, is the role of the government in the economy, through regulatory, fiscal, monetary and labour-market policies and "in shaping markets, promoting growth, providing employment, and ensuring the welfare of firms and families". While some see these three conceptions as competing, David Garland argues that none "of these three sectors can exist in that form without the others as structural supports".[54]

35. In comparing basic income schemes with the welfare state, it is important to note that some of the proposed forms of basic income are intended to replace the welfare state, while others complement it or only partly replace it. Charles Murray proposes a radical form of basic income designed to replace the welfare state,[55] and to eliminate "programmes that are unambiguously transfers — Social Security, Medicare, Medicaid, welfare programmes, social service programmes, agricultural subsidies, and corporate welfare", but that would keep in place State-funded education.[56] But others have argued that "a basic income should not be understood as being, by definition, a full substitute for all existing transfers, much less a substitute for the public funding of quality education, quality health care, and other services".[57] This approach is supported by commentators for whom basic income schemes "would not necessarily replace contributory benefits".[58] A Canadian study proposes that a new basic income should come on top of 33 existing income support programmes.[59]

36. Most of its proponents do not envision basic income directly replacing the third conception of the welfare state, namely the role of the government in the economy. As far as the second conception is concerned, many proponents appear to leave public education and social services mostly untouched. Even Murray would leave State-funded education and child protection services in place, although individuals would have to fund their own

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[51] See www.globalincome.org/English/English.html and http://worldbasicincome.weebly.com/.

[52] "The basics", available from http://worldbasicincome.weebly.com/the-basics.html.

[53] "How we could fund a world basic income", available from http://worldbasicincome.weebly.com/finding-the-money.html.

[54] David Garland, *The Welfare State: A Very Short Introduction* (Oxford University Press, 2016), p. 9.

[55] Charles Murray, "A guaranteed income for every American", *Wall Street Journal*, 3 June 2016.

[56] Murray, "Guaranteed income as a replacement for the welfare state", p. 4.

[57] Van Parijs and Vanderborght, *Basic Income*, p. 12.

[58] J.A. Noguera, "Basic income and contributory pensions", in Karl Widerquist and others, eds., *Basic Income: An Anthology of Contemporary Research* (Wiley and Sons, 2013), p. 347.

[59] David Macdonald, "A policymaker's guide to basic income" (Canadian Centre for Policy Alternatives, 2016), p. 8.

health insurance.[60] But most basic income proposals appear to want to replace, in whole or in part, either the existing contributory social insurance schemes, or the non-contributory social assistance measures for the poorer groups in society, or both.

37. As for similarities, some existing non-contributory programmes in developed countries are already close to the concept of basic income. Many European countries, for example, have universal child-benefit systems that transfer cash to parents with few, if any, conditions attached and that are paid from public funds to all parents with children of a certain age, even if benefit levels might vary according to the number of children or the income of the parents.[61] The main difference between basic income and such programmes appears to be that the latter restrict payments to specific groups such as children or the elderly.

38. However, many social insurance and social assistance programmes that are integral parts of the welfare state differ in crucial respects from basic income. A study of 108 countries where child benefit or family benefit schemes were anchored in national legislation found that only 49 of them had non-contributory schemes.[62] And contributory schemes generally only cover those in formal employment. They are therefore not universal, and often impose conditions, such as actively searching for work or undergoing medical tests. Moreover, they often go well beyond a floor, by compensating in part or in full for lost earnings.[63]

D. Cash transfers

39. The past two decades have seen a dramatic increase in cash transfer programmes in low- and middle-income countries, including conditional cash transfers and unconditional cash transfers.[64] The World Bank, which strongly supports conditional cash transfers, defines them as "periodic monetary benefits to poor households that require beneficiaries to comply with specific behavioural requirements to encourage investments in human capital (such as school attendance, immunization, and health check-ups)".[65] Unconditional cash transfers have no such strings attached. The largest conditional cash transfer in the world is *Bolsa Família* in Brazil, with more than 70 million beneficiaries, while the largest unconditional cash transfer is *Dibao* in China, with about 75 million beneficiaries.[66] Conditional cash transfers have long been considered a hallmark of Latin American countries. While African countries have focused more on unconditional cash transfers, conditional cash transfers have expanded in Africa in recent years, albeit with relatively "soft" conditions attached.[67]

40. To understand the differences and similarities between cash transfers and basic income, it is helpful to look at the experience in particular countries. Mexico had one of the first conditional cash transfer programmes, *PROGRESA*, which was introduced in 1997. It was greatly expanded over time and was renamed *Oportunidades*. It is aimed at combating intergenerational poverty and is targeted only at poor households. The conditions are that children do not miss more than three days of school per month and that household members attend a medical clinic once a month. Mexico also has unconditional cash transfers, such as the *Pensión Ciudadana Universal* in Mexico City, a monthly electronic transfer to senior citizens of at least half the minimum wage, with no conditionality other than age and

[60] Murray, "Guaranteed income as a replacement for the welfare state", p. 4.
[61] Van Parijs and Vanderborght, *Basic Income*, pp. 158 and 159.
[62] International Labour Office, *World Social Protection Report 2014/15* (2014), p. 16.
[63] Noguera, "Basic income and contributory pensions", p. 347.
[64] World Bank Group, *The State of Social Safety Nets 2015* (Washington, D.C., 2015), pp. 1 and 8.
[65] Ibid.
[66] Ibid., p. 10.
[67] Ibid, p. 9.

residency, and *Setenta y Más*, another unconditional cash transfer for people over 70 years of age who reside in smaller localities.[69]

41. Another famous example is the *Bolsa Família* in Brazil — Latin America's largest conditional cash transfer programme — which was introduced in 2004, building on earlier, smaller, cash transfer programmes. Indigent and poor families wanting to receive the cash benefit are required to visit health clinics regularly and/or to meet minimum school attendance requirements. Brazil also has unconditional cash transfer programmes, such as the *Benefício de Prestação Continuada*, which is disbursed to the elderly and to individuals with disabilities living in low-income households. The *Bolsa Família* was enacted the day after another law that established a citizen's income for every Brazilian citizen or foreigner residing in the country for more than five years, regardless of their socioeconomic condition. But the latter law was never implemented and is often confused by the public with other existing minimum income programmes.[69]

42. Many African countries have unconditional cash transfers in the form of "social pensions" provided to all citizens above a certain age, without prior conditions.[70] A newer phenomenon is the introduction of universal unconditional cash transfers in the context of subsidy reform. In 2010, the Islamic Republic of Iran introduced a "cash subsidy" of around $45 per month payable to all Iranians living in the country, to compensate for subsidy reductions on gasoline, gas, water and electricity.[71] Similarly, Saudi Arabia is currently introducing a "household allowance" — a cash transfer to the poor and the middle classes (decreasing with income) to compensate for planned subsidy reforms.[72]

43. Unconditional cash transfers, although without strings attached, differ from basic income schemes in several respects. First, they are generally paid to households[73] and may vary accordingly. Second, unconditional cash transfers often target the poor or other categories such as children or the elderly. Third, the amount of the unconditional cash transfers often differs, depending on the recipient's situation.

44. While Van Parijs and Vanderborght claim that such programmes are "still a long way from an unconditional basic income",[74] others have argued that experience with these cash transfer schemes "gives empirical support to arguments in favour of a universal unconditional basic income",[75] and that they offer guidance for the optimal design of basic income schemes in high-income countries.[76] Still, whether these existing cash transfer programmes are a stepping stone to full basic income schemes remains uncertain. Lavinas has argued that the *Bolsa Família* is the "antithesis" of a citizen's income and "cannot be seen as a starting point toward a universal and unconditional income".[77]

E. Social protection floors

45. Internationally, social protection floors have been promoted in the context of the Social Protection Floor Initiative, launched in 2009.[78] This initiative culminated in the 2011

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[69] Pablo Yanes, "Targeting and conditionalities in Mexico: the end of a cash transfer model?", in R.L. Vuolo, ed., *Citizen's Income and Welfare Regimes in Latin America* (Palgrave Macmillan, 2013), pp. 67-85.

[69] Lena Lavinas, "Brazil: the lost road to citizen's income", in R.L. Vuolo, ed., *Citizen's Income and Welfare Regimes in Latin America* (Palgrave Macmillan, 2013), pp. 34-42.

[70] Guy Standing, "How cash transfers promote the case for basic income", *Basic Income Studies* (April 2008), p. 19.

[71] Hamid Tabatabai, "Iran: a bumpy road toward basic income", in R.K. Caputo, ed., *Basic Income Guarantee and Politics* (Palgrave Macmillan, 2012), p. 285.

[72] "Blow of higher utility bills softened for low-income Saudis", *Arab News*, 24 December 2016.

[73] Tabatabai, "Iran: a bumpy road", pp. 293 and 294.

[74] Van Parijs and Vanderborght, *Basic Income*, p. 69.

[75] Standing, "How cash transfers promote the case for basic income", p. 2.

[76] Evelyn L. Forget, Alexander D. Peden and Stephenson B. Strobel, "Cash transfers, basic income and community-building", *Social Inclusion*, vol. 1, No. 2 (2013), p. 90.

[77] Lena Lavinas, "Brazil: the lost road to citizen's income", p. 44.

[78] See A/69/297.

report by the Social Protection Floor Advisory Group (the "Bachelet report") and in the Social Protection Floors Recommendation, 2012 (No. 202). And Sustainable Development Goal 1 advocates "appropriate social protection systems and measures for all, including floors".

46. Under the Social Protection Floors Recommendation, 2012 (No. 202), States should establish and maintain social protection floors ensuring that, at a minimum, "over the life cycle, all in need have access to essential health care and to basic income security which together secure effective access to goods and services defined as necessary at the national level". This comprises essential health care, including maternity care, and basic income security for children, for active-age adults in cases of sickness, unemployment, maternity and disability, and for older persons. These goals may be achieved through any of the following schemes: universal benefit, social insurance, social assistance, negative income tax, public employment and employment support.

47. Basic income is thus not at odds with social protection floors, with universality being a key assumption of both. While basic income proponents have suggested that the reference to "basic income security" in recommendation No. 202 is a much broader concept than their idea of basic income, they see social protection floors as a "significant step toward basic income by legitimizing the idea of basic income security as an essential ingredient for human development".[77]

IV. Basic income and poverty

48. A basic income could have vastly different effects, depending on the starting point. In wealthier countries with more established social welfare systems, there is a greater risk that replacing existing social support schemes would leave the poor worse off. But in a country with only a minimal social support scheme in place, any regular, unconditional transfers to the poor and marginalized would be a net positive in the absence of more attractive alternative schemes such as a social protection floor. Despite the importance of the current debate in India and the pilot projects in Kenya, most of the policy debate has focused on developed countries and their specific needs and perspectives. If the concept is to achieve broader uptake, the debate needs to be expanded and diversified.

49. Between 1974 and 1979, a negative income tax experiment ran in the Canadian city of Dauphin. Subsequent analysis of the data confirmed various positive effects, including a drop in hospitalization rates, especially for mental health and accident admissions, as well as an increase in year 12 school registrations.[78]

50. In Canada, two basic income approaches have been the subject of macroeconomic modelling: a full basic income for all Canadians, and a negative income tax under which the richest receive nothing and the poorest receive the maximum income supplement.[81] Neither payment is adjusted for age. In terms of poverty, the conclusion was that:[82]

> Cancelling existing income transfer programmes in favour of a single basic income results either in dramatically higher levels of poverty, or ethically and politically unsupportable compromises where seniors are pushed into poverty to lift up adults and children. The more acceptable and feasible approach would be to set up a new basic income on top of the 33 transfers that already exist, thus creating only winners, though the main beneficiaries would be middle-aged Canadians.

51. However, the negative income tax option would be problematic for 18- to 29-year-olds and for senior women. The Canadian examples demonstrate the potentially positive

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[77] Ian Orton, "Opinion: The UN Social Protection Floor 'Global Fund' - An entry point for the basic income?", 3 June 2013. Available from http://basicincome.org/news/2013/06/opinion-the-un-social-protection-floor-global-fund-an-entry-point-for-the-basic-income/

[78] Evelyn L. Forget, "The town with no poverty: using health administration data to revisit outcomes of a Canadian Guaranteed Annual Income field experiment" (University of Manitoba, February 2011).

[81] Macdonald, "A policymaker's guide to basic income", p. 6.

[82] Ibid., p. 8.

effects of negative income tax, but warn that a basic income model that *replaces* existing social support mechanisms could have seriously negative effects on the poor.

V. Affordability

52. Basic income proponents have devoted relatively little attention to the biggest question of all, which concerns affordability.[83]

53. The "floor" proposed by Van Parijs and Vanderborght is not "sufficient to cover what would be regarded as basic needs". Although clearly reluctant to put a figure on their proposal, they suggest an amount of 25 per cent of current gross domestic product (GDP) per capita, which is "modest enough [to be] sustainable and generous enough for it to be plausible that it will make a big difference". They calculate that this would have amounted in 2015 to $1,163 per month in the United States, $1,670 in Switzerland and $9.50 in the Democratic Republic of the Congo. They do not claim that this level is high enough to get every household out of poverty, although the United States figure would be higher than the official poverty line. They also emphasize that if individuals currently receive benefits higher than the basic income, it "must be topped up by conditional supplements" so that the total disposable incomes of poor households are not lowered vis-à-vis their current levels.[84]

54. But how would these expenditures be paid for? Piachaud notes that a full basic income that "replaces social security is far more costly than social security, and this has to be paid for from higher taxes on all incomes with far-reaching economic consequences".[85]

55. *The Economist*, relying upon the Organization for Economic Cooperation and Development's "universal basic income calculator", concludes that the United States could pay every citizen $6,300 per year if it scrapped all its non-health transfer payments.[86] In other words, if it paid its citizens 25 per cent of GDP per capita ($13,956 per year) as Van Parijs and Vanderborght propose, it would need to raise taxes to cover the difference between $13,956 and $6,300. The Cato Institute calculated that paying 296 million United States citizens the poverty-line amount of $12,316 per year would cost $4.4 trillion. Even if all federal and state social assistance spending for the poor (around $1 trillion) and all "middle-class social welfare programmes such as Social Security and Medicare" (depending on the calculations, costing between $2.13 and $2.5 trillion) were eliminated, there would still be a funding gap of roughly $1 trillion.[87]

56. Cost calculations for Canada are also revealing. If existing Canadian "de facto" basic income programmes (such as Canada Child Benefit for children, the Guaranteed Income Supplement for the elderly and sales tax credits for working adults), quasi-basic income programmes, earned income tax credits, social assistance and employment insurance were all cancelled, the savings could support a basic income for all Canadians (depending on which programmes were scrapped) of between Can$ 2,655 and Can$ 3,565 per year, with between roughly 1.7 and 1.9 million Canadians falling below the poverty line. Under a scenario in which all existing programmes were kept in place and a supplemental universal basic income was paid to all Canadians of Can$ 1,000 per year, 719,000 Canadians would be taken out of poverty, but at a net cost of Can$ 29.2 billion (equalling Can$ 40,886 per person). To pay for this, the Canadian rate of value added tax would have to be increased from 5 per cent to 9 per cent or income taxes would have to be increased by 20 per cent.[88]

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[83] See Jennifer Mays and Greg Marston, "Reimagining equity and egalitarianism: the basic income debate in Australia", *Journal of Sociology and Social Welfare*, vol. 43, No. 3 (September 2016), p. 17; Aaron Major, "Affording Utopia: the economic viability of 'a capitalist road to communism'", *Basic Income Studies*, vol. 11, No. 2 (2016), p. 75; "Sighing for paradise to come", *The Economist*, 4 June 2016; and "The case for free money", *The New Yorker*, 20 June 2016.

[84] Van Parijs and Vanderborght, *Basic Income*, pp. 10-12.

[85] Piachaud, "Citizen's income: rights and wrongs".

[86] "Universal basic income in the OECD", *The Economist*, 3 June 2016.

[87] Tanner, p. 15.

[88] Macdonald, "A policymaker's guide to basic income", pp. 19-21.

57. Finally, a simulation for the region of Catalonia, in Spain, suggests that a basic annual income of €7,968 for those aged over 18 and of €1,594 for minors would require a 49.57 per cent flat tax rate and extra financing of €7 billion.[89]

58. Van Parijs and Vanderborght admit that a universal basic income at 25 per cent of GDP per capita would result in "far higher rates of taxation because of the need to keep funding other public expenditures". They then proceed to point to some (relatively small-scale) basic income experiments, negative income tax experiments and econometric models, none of which provides a clear answer on affordability. After discussing alternative financing models, such as taxes on capital, nature, money and consumption, they conclude that "none of these alternative sources offers a panacea, or any robust assurance that a generous basic income is economically sustainable, or any reason to believe that, in the short run at any rate, we can dispense with the income tax".[90] That leads them to explore alternatives to their core idea of a universal basic income — including a categorical basic income, a household basic income and tax surcharge, and their preferred alternative, a partial basic income: "one that makes no claim to being sufficient to live on if one lives alone".[91]

VI. Conclusion

59. **The most committed proponents of basic income proclaim their approach to be utopian,[92] not in the sense of being unrealistic or unachievable, but as providing a highly ambitious, sweeping, and progressive vision. Critics or sceptics who raise objections based on unaffordability, the unacceptability of unconditionality or the unrealistic change in mentality required will often be dismissed as unimaginative defenders of an obviously unsatisfactory status quo.**[93]

60. **But these contrasting views accurately reflect the conclusion that emerges from a comprehensive survey of the many different utopias the world has known, which is that "utopias are essential but potentially dangerous".[94] In this case, the danger is that the single-minded pursuit of basic income as a magic bullet, capable of resolving many deeply troubling challenges, will distract attention from the deeper underlying complexities and values. But the utopian vision may also provide the much-needed impetus to rethink the optimal shape of social protection explicitly designed to achieve universal realization of the human right to an adequate standard of living in the twenty-first century. At a comparable watershed moment, Lord Beveridge introduced his 1943 report that laid the groundwork for the British welfare state by insisting that a "revolutionary moment in the world's history is a time for revolutions, not for patching".[95]**

61. **Thus, the basic income concept should not be rejected out of hand on the grounds that it is utopian. Policymakers at the national and international levels need to develop the sort of creativity in social policy that is capable of matching and responding to the technological innovations and other developments that have brought us to this crossroads. Despite the magnitude of the challenge and the breathtaking scope of the proposed solution, there is an option, which Van Parijs seems to have subtly embraced, to move in an incremental fashion towards the overall**

[89] Jordi Arcarons, Daniel Raventos Pañella and Lluis Torrens Mélich, "Feasibility of financing a basic income", *Basic Income Studies*, vol. 9, No. 1-2 (2014), pp. 79-93.

[90] Van Parijs and Vanderborght, *Basic Income*, p. 137.

[91] Ibid., p. 165.

[92] Ibid., pp. 245-247; and Bregman, *Utopia for Realists*.

[93] For an excellent overview of the practical and principled objections, see Piachaud, "Citizen's income: rights and wrongs".

[94] Lyman Tower Sargent, *Utopianism: A Very Short Introduction* (Oxford University Press, 2010), p. 127.

[95] Beveridge report, para. 7.

goal. As Anthony Atkinson has observed, inspired by Amartya Sen's work, "the aim is progressive reform rather than transcendental optimality".[96]

62. The most prominent path chosen to date has focused on respect for labour rights.[97] But significant questions arise as to whether the tools used to tackle economic insecurity in that context have been, or are likely to be, effective in responding to the emerging conditions in the global labour market. For example, in its general comment No. 18 (2005) on the right to work, the Committee on Economic, Social and Cultural Rights calls on States "to reduce to the fullest extent possible the number of workers outside the formal economy", "to ensure that privatization measures do not undermine workers' rights", and to ensure that enhanced labour market flexibility does "not render work less stable or reduce the social protection of the worker". All of these important objectives are grounded in human rights law, but the question is how best to respond to the reality that the trends in most industries seem to be heading rapidly in the opposite direction.

63. Similarly, an ILO report entitled *Decent Work in Global Supply Chains* responded to the "negative implications for working conditions" of "the dynamics of production and employment relations within the global economy" by proposing a series of steps such as promoting international labour standards, closing governance gaps and promoting inclusive and effective social dialogue.[98] Unsurprisingly, after lengthy debate on the report, the 2016 International Labour Conference expressed its "concern that current ILO standards may not be fit for purpose to achieve decent work in global supply chains".[99]

64. It does not follow from the gap between theory and practice that labour rights should be compromised, let alone abandoned, but it does highlight the fact that traditional approaches might not have much traction in the face of the systematic weakening of labour market institutions, the dramatic increase in more flexible working conditions, and the greatly increased insecurity, including the loss of non-wage benefits, for those who remain employed.[100]

65. This is where the basic income debate comes in. A focus on social protection more broadly defined might be a more propitious entry point to tackle these issues. Governments remain centrally responsible for ensuring appropriate levels of social protection within their borders, they have a self-interest in promoting stability and economic security, and they control the resources needed.

66. One of the biggest challenges in relation to basic income is to move beyond its chameleon-like character. There are many versions of it, and each is supported by a diverse array of actors, precisely because they see different attractions in the concept. To assess the utility and acceptability of basic income from a human rights perspective, it is helpful to identify the main categories of motivation.

(a) Discouraging laziness and incentivizing work;

(b) Efficiency, in terms of avoiding welfare fraud, duplicative programmes, double-dipping, and bloated bureaucracies. As one commentator rejoiced: "we get to fire a couple of million bureaucrats";[101]

(c) Adaptation to technological advances, both in terms of compensating for vast numbers of jobs lost in an age of automation and robotization and to ensure some

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[96] Anthony B. Atkinson, *Inequality: What Can Be Done?* (Harvard University Press, 2015), p. 236; and Amartya Sen, *The Idea of Justice* (Harvard University Press, 2009).

[97] For an important analysis of the challenges to labour rights in the context of economic reform and austerity measures, see A/HRC/34/57.

[98] "Decent work in global supply chains", report IV, International Labour Conference, 105th session (2016).

[99] Resolution concerning decent work in global supply chains, adopted on 10 June 2016, para. 25.

[100] Tim Vlandas and Daphne Halikiopoulou, "Why far-right parties do well at times of crisis: the role of labour market institutions", European Trade Union Institute working paper 2016.07, p. 5.

[101] Tim Worstall, "Krugman's argument in favour of a universal basic income", *Forbes*, 5 May 2015.

basic redistribution of wealth in an era characterized by exponential growth in the wealth of technology entrepreneurs;

(d) The right to work, either in the sense of promoting full employment for the community or of the individual being able to choose satisfying work;

(e) Freedom, in the sense of the ability to make career and related choices, or the ability to exercise political rights because of a degree of economic security;

(f) Fairness and social justice.

67. All of these motivations are persuasive on their own terms, but unless they are integrally linked to the last category the likelihood is that what will emerge will be another strategy designed to promote productivity and efficiency, but without concern for the far more fundamental goals.

68. How then should human rights actors and institutions respond to the crisis of economic insecurity and the phenomena associated with it? And where might a campaign to achieve a basic income fit into the overall equation?

69. The starting point is to acknowledge that economic insecurity represents a fundamental threat to human rights. It is not only a threat to the enjoyment of economic and social rights, even though they are a principal concern. Extreme inequality, rapidly increasing insecurity, and the domination of politics by economic elites in many countries, all threaten to undermine support for, and ultimately the viability of, the democratic systems of governance upon which the human rights framework depends.[102]

70. Second, the right to work, the right to social security, and above all the right to an adequate standard of living need to be given a prominent place on the human rights community's agenda. If these rights are marginalized, the overall agenda will become increasingly less relevant to the most pressing and urgent questions of the day.

71. Third, contrary to the orthodoxy promoted by economic institutions and corporate actors in recent years, there needs to be a resurgence of support for the central role of the State, and recognition of the importance of fair and progressive fiscal policies, and of the indispensability of policies to ensure redistributive justice.

72. Fourth, the implications for gender equality from growing economic insecurity are almost unremittingly negative. It remains true that "the average woman's career remains shorter, more disrupted and less remunerative than the average man's",[103] **and the consequences flow through into social security and related arrangements. Proponents of women's human rights need to become more involved in debates over social protection and basic income.**

73. Fifth, proponents of a basic income need to ensure that particular schemes to implement the concept are not narrowly linked to citizenship at the expense of all others who are part of the community.

74. Sixth, and most important, the debates over social protection floors and basic income need to be brought together. They have thus far been kept largely separate, in a counterproductive and ultimately self-defeating way. It is true that there are points of divergence between the two concepts, but they have vastly more potential if their synergies are recognized, rather than being ignored. Among the differences are the following: (a) the social protection floor mostly draws on experience in developing countries,[104] **while basic income advocates tend to emphasize developed countries; (b) social protection floors aim to guarantee both income security and access to essential**

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[102] Ganesh Sitaraman, *The Crisis of the Middle-Class Constitution: Why Economic Inequality Threatens Our Republic* (Knopf, 2017).

[103] Anne L. Alstott, "Good for women: a response to 'A basic income for all' by Philippe van Parijs", *Boston Review* (2000). Available from http://bostonreview.net/archives/BR25.5/alstott.html.

[104] International Labour Office, *Social Protection Floor for a Fair and Inclusive Globalization: Report of the Social Protection Floor Advisory Group* (2011), p. xxii.

social services, while basic income schemes only guarantee income; (c) the concept of basic income security is broader than basic income cash transfers, since it also includes in-kind transfers; (d) social protection floors focus not only on achieving social guarantees for all, but also on gradually implementing higher standards; (e) social protection floors are not viewed as alternatives to social insurance institutions,[105] while some basic income proponents aim to replace existing social insurance institutions; and (f) the Social Protection Floors Recommendation, 2012 (No. 202) is premised upon human rights, unlike most basic income schemes. But the proponents of the two approaches have an immense amount in common, and if it is recognized that basic income is not an idea that can be achieved in a single leap, there could be no better and more elaborate and widely supported programme than that for the social protection floor.

[105] Ibid., p. xxviii.

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extreme poverty and human rights, Philip Alston, on his mission to Mauritania from 2 to 11 May 2016. The Special Rapporteur found that, while Mauritania has made a significant progress in alleviating poverty in recent years, a large part of the population continues to live in multidimensional poverty, deprived of access to adequate food, education, water and sanitation, and health care. He also found that Haratines and Afro-Mauritanians are excluded from almost all positions of real power and many aspects of economic and social life, which has the consequence of condemning them to poverty. Other challenges to eliminating poverty include the lack of recognition of social and economic rights, the absence of accurate and disaggregated data and shrinking civil society space. The recommendations made by the Special Rapporteur in the present report focus on the work of Tadamoun — the National Agency for the Eradication of the Vestiges of Slavery, Social Integration and Action to Fight Poverty — the Strategy for Accelerated Growth and Shared Prosperity and the Government's broader social protection policies and programmes.

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to Mauritania*

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* Circulated in the language of submission only and in French.

I. Introduction

1. Pursuant to Human Rights Council resolutions 8/11 and 26/3, the Special Rapporteur on extreme poverty and human rights visited Mauritania from 2 to 11 May 2016. The purpose of the visit was to evaluate and report to the Council on the extent to which the Government's policies and programmes relating to extreme poverty are consistent with its human rights obligations and to offer constructive recommendations to the Government and other stakeholders.

2. The Special Rapporteur is grateful to the Government of Mauritania, particularly the Office of the Commissioner for Human Rights and Humanitarian Action, for its full support. During his mission, the Special Rapporteur met with the Prime Minister, the President of the National Assembly, the Minister of National Education, the Minister of the Interior and Decentralization, the Minister of Housing, Urban and Regional Development, the Minister of Social Affairs, Children and Families and the Minister of Economy and Finance. He also met with the Director General of Tadamoun, the National Agency for the Eradication of the Vestiges of Slavery, Social Integration and Action to Fight Poverty, the Director of the National Statistics Office, the Director General of the National Agency for Population and Identity Documents Registration, the Commissioner for Food Security and the President of the National Commission on Human Rights.

3. In Nouakchott, the Special Rapporteur met with representatives of political parties, civil society organizations, international organizations and the diplomatic community. He visited informal settlements in El-Mina and Dar el-Beida districts, and the regions (wilayas) of Gorgol, Brakna and Trarza. In those wilayas, he met with governors (walis), prefects (hakems), mayors, regional representatives of national ministries and agencies, representatives of civil society organizations and international organizations, and many individuals living in poverty.

4. The Special Rapporteur appreciates the assistance provided by various international organizations, particularly the World Bank and the United Nations Children's Fund (UNICEF). He is also grateful to non-governmental organizations (NGOs) and experts for the important assistance and advice provided.

II. International legal framework

5. Mauritania has ratified all the major international human rights treaties. It has also established the National Commission on Human Rights. However, despite the fact that the Commission has been accredited with "A" status by the Global Alliance of National Human Rights Institutions, it has adopted an extremely narrow interpretation of its role and is widely considered to be a mouthpiece for government policy, even in instances where it seems that human rights are clearly being violated.

III. Poverty in Mauritania

A. Income poverty

6. In many respects, Mauritania is a wealthy country as it is rich in minerals, fish, cattle and agricultural land in the Senegal River Valley. There have been significant achievements in alleviating poverty in recent years, especially in urban areas. However, in rural areas, large numbers of people continue to live in crushing poverty.

7. According to the Government's 2014 household survey, poverty decreased from 42 per cent in 2008 to 31 per cent in 2014.[1] Extreme poverty decreased from 25.9 per cent in

[1] Mauritania, *Enquête permanente sur les conditions de vie des ménages: Profil de la pauvreté en Mauritanie*, 2014, p. 9.

2008 to 16.6 per cent in 2014. However, the total number of poor people increased, owing to high levels of population growth.

8. The household survey defines poverty as an income of less than 169,445 ouguiyas per year (approximately $1.34 per day) and extreme poverty is set at 126,035 ouguiyas per year (approximately $1.14 per day). International standards, however, use the World Bank benchmark to define extreme poverty, which, until October 2015, was $1.25 per day, but has since been adjusted to $1.90 per day. Although the National Statistics Office is currently updating the poverty standard, the different thresholds mean that the 2014 household survey underestimates the true extent of poverty based on international standards.

9. Poverty in Mauritania is very unevenly distributed. The national poverty rate for 2014 was 31 per cent, which reflected a rural poverty rate of 44.4 per cent and an urban rate of 16.7 per cent, with 74 per cent of the poor population living in rural areas.[2] In 2015, the four most populated southern wilayas accounted for 55 per cent of the poor population in Mauritania.[3] While poverty rates in wilayas such as Nouakchott, Nouadhibou, Tirs Zemmour and Inchiri were below 24 per cent, poverty rates were higher than 38 per cent in the wilayas of Guidimagha, Tagant, Assaba, Brakna, Hodh el-Gharbi and Gorgol.[4]

10. Poverty is also very unevenly distributed across occupations. Households whose heads work in farming or livestock rearing had poverty rates of 59.6 per cent and 41.8 per cent, respectively, while those with heads working in the health or mining sectors had poverty rates of 4.9 per cent and 7.9 per cent, respectively.[5] The poverty rate for agricultural workers rose from 54 per cent in 2008 to 59.6 per cent in 2014.[6]

11. The unequal division of poverty has led to a rural exodus as a result of successive droughts, lack of access to water, food and decent employment as well as inadequate education and health-care services. Nouakchott is one of the fastest growing urban centres in Africa and already accounts for more than one quarter of the total population of Mauritania.[7] This has strained the capacity of public services in the capital. Many young people in the capital are neither in school nor employed and can thus be vulnerable to being drawn into criminal or terrorist activity.

B. Multidimensional poverty

12. Poverty should be understood as a multidimensional phenomenon involving much more than simply a lack of income. According to the 2015 Human Development Report of the United Nations Development Programme (UNDP), the rate of multidimensional poverty in Mauritania is 55.6 per cent, which accounts for multiple deprivations in education, health and living standards in the same household, with an additional 16.8 per cent of households approaching multidimensional poverty.[8] Thus, almost three quarters of the population is living in or approaching multidimensional poverty.

C. Water

13. The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses, including drinking,

[2] Ibid., p. 21.

[3] World Bank, *Mauritania — Social Safety Net System Project*, Project appraisal document, April 2015, p. 2.

[4] Mauritania, *Profil de la pauvreté en Mauritanie*, 2014, pp. 23-24.

[5] Ibid., p. 28.

[6] United Nations Development Programme (UNDP), *Rapport national sur le développement humain — Mauritanie*, 2015, p. 14.

[7] Mauritania, *Recensement général de la population et de l'habitat*, 2013, p. 11.

[8] UNDP, "Work for human development: Briefing note for countries on the 2015 Human Development Report — Mauritania", 2015. Available from http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/MRT.pdf.

personal sanitation, washing of clothes, food preparation, personal and household hygiene.[9] Water should be within safe physical reach for all sections of the population, and be affordable and accessible to all.

14. In many of the rural areas that the Special Rapporteur visited, lack of access to water was a major and persistent problem. A woman in the town of M'bout described life as "hell", owing to the limited access to water, which was exacerbated by the heat. Others explained that, while they had access to a shared water tap, water flows were often interrupted. Subscription to a water tap costs approximately 15,000 ouguiyas ($42) per month, or 180,000 ouguiyas ($504) per year. This is very expensive and is higher than the national poverty line of 169,445 ouguiyas ($474) per year. In the village of N'Dadj-Beni Choufra, water comes from several wells; at the time of the mission, water levels were extremely low and villagers, mainly women and children, had to queue for water. The nearest water source to the commune of Bath Moyt was 4 kilometres away. Women were barely able to carry enough water home to satisfy the drinking water needs of their families. In all these cases, the local population indicated that multiple requests for Government assistance had gone unanswered.

15. Despite the Government's obligation to realize the right to water and to facilitate improved and sustainable access to water, particularly in rural and deprived urban areas, the rural water strategy described in the Poverty Reduction Strategy Paper Action Plan (2011-2015) contained few precise targets beyond increasing "the supply of safe drinking water in rural areas to 65 per cent" and providing "safe drinking water to 200 localities with more than 500 inhabitants in rural areas". Equally non-specific was the commitment to rehabilitate "the water distribution systems in towns in the interior".[10] While an update of the Strategy in 2016 contains some additional targets on access to water in rural and urban areas, it remains unclear how achievements will be monitored and measured.

D. Food

16. In accordance with its obligations under the International Covenant on Economic, Social and Cultural Rights, Mauritania shall take steps to ensure that everyone in its territory is free from hunger and can, as soon as possible, enjoy the right to adequate food. This requires the adoption of a national strategy to ensure food and nutrition security for all, based on human rights principles and the formulation of policies to mobilize available resources.[11]

17. According to the World Food Programme, Mauritania suffers from chronic food insecurity and a high prevalence of malnutrition. Agricultural capacity is underexploited, output is low and Mauritania depends heavily on food imports. The July 2015 Food Security Monitoring Survey showed that 26.8 per cent of Mauritanian households experienced food insecurity during the lean period, with the Government expecting that this percentage would decline slightly for the same period in 2016.[12] In rural areas, the figure was 34.7 per cent and in urban areas, it was 18.3 per cent. The wilayas of Hodh el-Charghi, Guidimagha and Gorgol are the most seriously affected and the situation has worsened in the wilayas of Brakna and Trarza and in the north because those wilayas have not received any effective emergency food assistance since the beginning of 2015. The nutritional situation of children between the ages of 6 and 59 months has deteriorated seriously in all of the wilayas in the south and the east. The wilayas of Hodh el-Charghi, Assaba, Gorgol, Brakna, Tagant and Guidimagha have global acute malnutrition (GAM) rates above the emergency level of 15 per cent set by the World Health Organization. Nouadhibou is the

[9] See Committee on Economic, Social and Cultural Rights, general comment No. 15 (2002) on the right to water, paras. 2 and 12 (a).

[10] International Monetary Fund (IMF), *Mauritania — Poverty Reduction Strategy Paper, vol. II: Action Plan 2011-2015*, pp. 98 and 129.

[11] See Committee on Economic, Social and Cultural Rights, general comment No. 12 (1999) on the right to adequate food, para. 21.

[12] Mauritania, Food Security Office, World Food Programme and Food and Agriculture Organization of the United Nations, *Enquête de suivi de la sécurité alimentaire*, July 2015.

only wilaya in Mauritania with a GAM rate that approaches acceptable levels at 3.6 per cent.

E. Education

18. The right to education requires that primary education be compulsory and free of charge to all, and that secondary education "be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education".[13] This means, among other things, that "all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials and so on."[14]

19. In Mauritania, many children are not in either primary or secondary school. The Ministry of Education Annual School Census (2014/15) showed a net enrolment ratio (NER) of 81.1 per cent for primary school.[15] Thus, almost 19 per cent of children who should be enrolled in primary school are not. While the Government has suggested that some of those children are already in secondary school, no statistics or other details were offered in support of the claim. The gross enrolment ratio (GER), which is a less precise method of measuring school enrolment, was 104.9 per cent for 2014/15, compared to 100.9 per cent in 2013/14. The regional differences are significant. While net school enrolment is nearly universal in the wilaya of Adrar, the wilayas of Gorgol and Trarza have a net enrolment of only 65.3 per cent and 78.4 per cent, respectively.[16] At the secondary level, GER stood at 32.7 per cent in 2014/15[17] and NER at 26 per cent.[18] NER at the secondary level was as high as 46 per cent in Nouakchott, but reached only 10.3 per cent in Hodh el-Chargi.[19] Regarding students in secondary schools, 29.4 per cent were enrolled in private schools.[20]

20. While these government figures are already cause for serious concern, the actual school enrolment rates may be even lower. The 2013 national census, showed GERs of only 72.4 per cent for primary school and 30.9 per cent for secondary school, and NERs of 47.2 per cent for primary school and 30.3 per cent for secondary school.[21] The significant discrepancies between the figures produced by the Ministry of Education and the National Statistics Office raise serious concern about the quality of Government data.

21. According to the Government, education expenditure as a percentage of gross domestic product (GDP) increased from 3.2 per cent in 2010 to 3.6 per cent in 2014.[22] However, these figures are hard to reconcile with World Bank data, which show a decline from 3.6 per cent in 2010 to 3.3 per cent in 2013. The World Bank also reported a decline in education spending as a percentage of total government expenditure, from 16 per cent in 2010 to 11.4 per cent in 2013. Internationally, Mauritania ranks among the bottom half of countries in terms of government expenditure on education as a percentage of GDP.[23] This may explain why only 380 of the 4,430 primary schools in Mauritania had electricity in 2014/15; it should be noted that 289 of the 380 schools were private schools.[24] Almost all of

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[13] International Covenant on Economic, Social and Cultural Rights, art. 13 (2) (b).

[14] Committee on Economic, Social and Cultural Rights, general comment No. 13 (1999) on the right to education, para. 6 (a).

[15] Mauritania, Ministry of Education, *Annuaire des statistiques scolaires: année scolaire 2014-2015* (version provisoire), p. 7.

[16] Ibid.

[17] *Ibid., p. 71.*

[18] Ibid., p. 74.

[19] Ibid.

[20] Ibid., Introduction.

[21] Mauritania, *Recensement général de la population et de l'habitat, chap. 8 on alphabétisation, scolarisation et fréquentation scolaire.*

[22] Mauritania, *Rapport d'état sur le système éducatif national (RESEN)*, August 2015, p. 25, table 1.5.

[23] See www.cia.gov/library/publications/the-world-factbook/rankorder/2206rank.html.

[24] Mauritania, *Annuaire des statistiques scolaires 2014-2015.*

the people with whom the Special Rapporteur met outside of Government described the education system as being in shambles and claimed that private schools protected the children of the elite.

F. Health

22. The right to health encompasses the right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health. Such facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, and must be affordable.[26]

23. During the Special Rapporteur's field visits, difficulties in accessing health facilities were repeatedly cited as a top concern. Although the relatively small population of Mauritania is spread over a vast territory, rural populations must not be condemned to grossly inadequate health-care services. The 350 residents of the village of Kouedi in Gorgol wilaya have to travel 7 kilometres to M'bout for any form of health care. In the commune of Bath Moyt, which consists of 12 villages, the sole health dispensary was staffed by one nurse and a midwife, at the time of the visit. Children are often affected by malaria and diarrhoea; in case of complications, villagers have to hire a taxi to travel over 20 kilometres to Monguel, at a cost of 8,000 ouguiyas ($22.4). For more complicated matters, patients have to travel to Kaédi, which costs 22,000 ouguiyas ($61.6). The only ambulance currently available to transport patients to the dispensary from various parts of the commune is a donkey cart. There was a health dispensary in the village of Keur-Madiké in Trarza wilaya, but the nurse had left two years ago and, at the time of the visit, had not been replaced by the Government.[27] The dispensary was deserted and locked, but expensive health equipment and medicines lay abandoned inside. Because there is no health-care facility in the village and the road to Rosso cannot be reached during the rainy season, villagers are obliged to cross the Senegal River into Senegal for emergency cases or in cases of birthing complications.

24. Despite the explicit requirements of international human rights treaties, women and children in rural Mauritania suffer from a total absence of prenatal and postnatal care. The predictable consequences of this neglect are starkly confirmed by the national statistics. Mauritania has one of the world's highest maternal mortality rates;[27] the 2013 census indicated a rate of 582 deaths per 100,000 live births.[28] However, World Bank data indicate that the rate was as high as 855 in 2013 and 602 in 2015. In 2015, the mortality rate for children under 5 years of age was 84.7 per 1,000, which is a tragic statistic that encapsulates how much remains to be done. That rate was almost double the target of 45 per 1,000 set in the 2011-2015 Poverty Reduction Strategy Paper Action Plan.[29]

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[26] Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health, paras. 9 and 12 (b).

[27] In response to the initial draft of the present report, the Government stated that a new nurse had been assigned to the health centre. The Special Rapporteur has not been able to verify this claim.

[27] World Health Organization, UNICEF, United Nations Population Fund, World Bank Group and the United Nations Population Division, *Trends in Maternal Mortality: 1990 to 2015*, November 2015, p. 19.

[28] Mauritania, Ministry of Health, *Plan stratégique national de la santé de la reproduction 2016-2020*, December 2015, p. 7.

[29] IMF, *Mauritania — Poverty Reduction Strategy Paper, vol. II: Action Plan 2011-2015*, p. 127. See also p. 152, where the target is set at 55.

IV. Specific issues

A. Exclusion of Haratines and Afro-Mauritanians

25. There is a systematic absence from almost all positions of real power and a continuing exclusion from many aspects of economic and social life of Haratines (Black Moors) and Afro-Mauritanians. These groups make up over two thirds of the population of Mauritania, but various policies serve to render their needs and rights invisible. As a matter of policy, the Government does not collect statistics on the number of Haratines and Afro-Mauritanians living in Mauritania, nor does it disaggregate data in areas such as health and education to see how certain groups in society are faring vis-à-vis others.

26. Nevertheless, the 2013 census included a question about the respondent's mother tongue.[30] Data on languages spoken are, however, an imperfect proxy for ethnicity, which might explain why the published census report omitted section VI.8 of the questionnaire, dealing with the respondent's mother tongue.[31]

27. Although the ethnic composition of the population is a highly sensitive and contested matter in Mauritania, data are available from a range of sources. In a 2008 study, observers put the number of Haratines and Afro-Mauritanians combined at between 66 per cent and 75 per cent of the population.[32] Another source indicated that 30 per cent of the population was White Moor or Beydane, 40 per cent was Haratine and 30 per cent was Afro-Mauritanian. This would mean that Haratines and Afro-Mauritanians together make up 70 per cent of the population.[33] Various people with whom the Special Rapporteur spoke estimated the Haratine and Afro-Mauritanian population at between 70 and 80 per cent of the population. Another source estimated that Beydanes account for 27 per cent of the population, Haratines, 44 per cent, and Afro-Mauritanians, 29 per cent. The latter two groups combined thus make up 73 per cent of the population.[34]

28. The extent of exclusion of Haratines and Afro-Mauritanians from positions of power in society is reflected in a 2014 report, in which it is stated that, "out of 95 seats in the National Assembly, only 5 were held by Haratine; and out of the 56 senators only 1 was Haratine. Moreover, only 2 out of 13 regional governors and 3 of the 53 regional prefects were Haratine".[35] In the same report, it was noted that many non-governmental representatives had observed that the Arab-Moors dominated participation in political and economic life, whereas the majority of the population, mainly represented by the other two groups, had been de facto systematically excluded. According to another study, which used 2005 figures, 90 per cent of the officers in the military were Beydane, 7 per cent, Haratine and 3 per cent, Afro-Mauritanian.[36]

29. Extensive background research as well as conversations with a wide variety of interlocutors in Mauritania provided no reason to challenge these consistent findings. The United States of America Department of State estimated that Beydanes accounted for 27 per cent of the population, but occupied 80 per cent of the top leadership positions. Haratines (Black Moors) constituted 44 per cent of the population and held 10 per cent of those positions. The sub-Saharan ethnic groups, Halpulaar (18 per cent of the population in 8 per cent of the positions), Soninke (9 per cent in 1.5 per cent of the positions) and Wolof (2 per cent and in 0.75 per cent of the positions), remained greatly underrepresented in

[30] Mauritania, *Recensement général de la population et de l'habitat*, questionnaire, part IV.

[31] Ibid., chap. 1 on répartition spatiale.

[32] Anthony G. Pazzanita, *Historical Dictionary of Mauritania*, 2008, p. 415.

[33] See www.bibliomonde.com/donnee/mauritanie-population-393.html; also Anouar Boukhars, "Mauritania's precarious stability and Islamist undercurrent", Carnegie Endowment for International Peace, February 2016, p. 4.

[34] United States of America, Department of State, *Mauritania Human Rights Report 2015*, p. 14.

[35] See A/HRC/26/49/Add.1, para. 7.

[36] Vincent Bisson, "Échec et mat chez les Maures! Coups d'état et attentats en République Islamique de Mauritanie", *Recherches internationales*, No. 97, October-December 2013, p. 166.

leadership positions in the Government.[37] As a result, Beydane tribes and clans dominate positions in Government and business far beyond their representative proportion in the population. As a group, the Haratine remain politically and economically weaker than the Beydane, although it is the largest ethnocultural group in the country. The sub-Saharan ethnic groups, including the Halpulaar (the largest non-Moor group), Soninke and Wolof, were concentrated in the Senegal River Valley and urban areas. They, along with the Haratine, remain grossly underrepresented in leadership positions in Government, industry and the military.[38]

30. Despite such extensive evidence, the Special Rapporteur was consistently told by government officials that there is no discrimination in Mauritania and certainly not on the grounds of ethnicity, race or social origin. The Government claimed that the statistics put forward above are unscientific but did not offer any alternative statistics. The emphatic repetition of such an implausible claim might reasonably be taken as evidence of the contrary. In addition to this counter-intuitive factual claim, the position of the Government also has a deliberate policy component according to which it would be both discriminatory and divisive to acknowledge ethnic disparities. However, rather than being idealistic and altruistic, this approach is both self-serving by protecting the privileges of the dominant group and counterproductive by concealing the most significant societal challenges that need to be confronted. Group identity lies at the heart of politics everywhere and no more so than in a country that has only recently emerged from centuries of slavery and is still grappling with its ubiquitous consequences. To deny the relevance of ethnicity and insist that all citizens are treated in the same manner, without any effort to target particularly disadvantaged groups, is a recipe for the maintenance of the status quo.

31. Such denial policies also fuel instability. Economists and others speak of "horizontal inequalities" to describe inequality among groups defined in racial or cultural terms. For example, based on extensive empirical research, it has been observed that:

> When a group faces severe deprivation relative to other groups in social and economic dimensions, there is a strong motive to support political leaders representing the group. If such socioeconomic inequalities are accompanied by political exclusion, then group leaders may emerge to confront those in power with violence.[39]

32. Language policy is one way in which discrimination is achieved in practice. A State is fully entitled to designate a single official language, as Mauritania has done with Arabic. But in a multilingual State, in which many people do not speak the official language, it is incumbent upon the Government to adopt reasonable flexibility rather than insist that all official communications be in Arabic. The winners and losers of such a policy are not hard to identify.

33. To deal effectively with discrimination, the Government's commitment to ending the "vestiges of slavery" must be expanded to address directly the most enduring and consequential vestige — the continuing deep disempowerment of the great majority of former slaves. Furthermore, discussions of such vestiges should not be permitted to obscure the actual practice of slavery, which still exists in Mauritania. Because of the nature of the practice and the unwillingness on the part of the Government to collect meaningful data, it is difficult to estimate the exact number of slaves in Mauritania. The 2016 Global Slavery Index estimates that 43,000 Mauritanians or 1.06 per cent of the population is in a situation of slavery, based on 1,000 random-sample telephone or face-to-face surveys.[40] The 2014 figures were four times higher at 155,600 or 4 per cent of the population. However, the radical drop in numbers does not reflect changes on the ground, but rather a change in

[37] United States of America, Department of State, *Mauritania Human Rights Report 2015*, p. 14.

[38] Ibid., p. 22-23.

[39] Frances Stewart, "What horizontal inequalities are and why they matter", *European Progressive Observatory*, 21 July 2015. Available at www.queries-feps.eu/what-horizontal-inequalities-are-and-why-they-matter/.

[40] Walk Free Foundation, *Global Slavery Index 2016: Country Study — Mauritania*. Available from www.globalslaveryindex.org.

methodology. The 2014 estimate was based on pre-existing surveys and unidentified secondary sources. Such reporting does little to establish credibility and can actually undermine international monitoring efforts. By contrast, Anti-Slavery International estimates more prudently that "thousands of people still remain enslaved".[41]

34. The Government formally abolished slavery in 1981, but did not criminalize it until 2007 in Act No. 2007-048, followed by the inclusion in article 13 of the Constitution of a provision on punishing slavery and other forms of exploitation as crimes against humanity. In 2015, Act No. 2015-031, a new and more comprehensive law against slavery was adopted, which amended the 2007 Act. However, despite this important legal recognition of slavery as a serious human rights violation, the real problem lies with the implementation of the law. Civil society organizations refer to the "continued failure of police and administrative authorities to follow up instances of slavery brought to their attention, of prosecutors to adequately investigate reported cases and of judges at every stage of court proceedings to enforce proper procedure or sentence slave-owners in compliance with the law".[42] These omissions send a very inappropriate signal and it is hoped that the conviction in May 2016 of two slave-owners by a new Special Court for Slavery in Nema will be the beginning of a more serious effort by the State to eradicate slavery.

B. Land issues

35. The history of the land tenure system in Mauritania is highly complex and it is impossible to do full justice to that complexity in the present report. In essence, different groups traditionally followed different systems that were the product of agricultural conditions in the areas in which they lived and their different social structures.[43] The creation of a modern nation State after independence from France in 1960, as well as prolonged droughts since the 1970s, have brought major changes to traditional systems of land tenure.

36. During the period of military rule between 1978 and 1984, a new land law was adopted without any meaningful consultation. Ordinance 83-127 of 5 June 1983[44] was revolutionary because it recognized private land ownership and formally abolished the traditional land tenure system. Article 1 proclaims that the land belongs to the nation and that every Mauritanian could, without discrimination of any kind, in conformity with the law, become a landowner; article 2 recognizes and guarantees private land ownership, in conformity with sharia law; article 3 abolishes the system of traditional land tenure; and article 4 states that property rights can only be held by physical or moral persons.

37. The reasons underlying the adoption of the 1983 land law are heavily contested. Some suggest that the traditional land tenure system was eliminated because it was an obstacle to agricultural development.[45] The law has also been portrayed as a way of emancipating Haratines who were often trapped in feudal agricultural relationships with their masters.[46] A more critical interpretation is that the Beydane, who were not traditional landowners, but who were forced, owing to successive droughts, to give up their nomadic lifestyles, saw the land law as an opportunity to establish a foothold in the fertile south

[41] See Anti-Slavery International, "Slavery in Mauritania". Available at www.antislavery.org/english/slavery_today/descent_based_slavery/slavery_in_mauritania/default.aspx.

[42] See Minority Rights Group International and others, *Enforcing Mauritania's anti-slavery legislation: the continued failure of the justice system to prevent, protect and punish*, October 2015, p. 2.

[43] John Grayzel, "Modernizing land tenure in Mauritania: the rule of law in development", *Working papers on African Studies, No. 118*, African Studies Centre, 1986.

[44] Baring Foundation and Anti-Slavery International, "Programme de prévention et de résolution des conflits fonciers intercommunautaires en Mauritanie", May 2011, p. 13.

[45] World Bank, "Women's access to land in Mauritania", September 2015, p. 8.

[46] Baring Foundation and Anti-Slavery International, "*Programme de prévention et de résolution des conflits intercommunautaires en Mauritanie*", p. 14.

along the Senegal River.[47] For various reasons, many groups in Mauritania remain deeply critical of both the objectives and the consequences of this law.

38. In December 1984, Maaouya Ould Taya came to power through a coup. His policy of Arabization of the Government and the education system led to increasing tension between Moors (Beydanes) and Afro-Mauritanians. This tension was aggravated by the implementation of the 1983 land law[48] and culminated in the humanitarian situation (*passif humanitaire*) that occurred between 1989 and 1992. It involved the expulsion in April 1989 of an estimated 50,000 people to Senegal, comprising Afro-Mauritanian government employees suspected of belonging to the opposition and villagers living in the Senegal River Valley, predominantly, but not exclusively, from the Halpulaar or Peul ethnic group.[49] The identity cards of many were lost or confiscated during the expulsion. Many who stayed behind risked detention, torture and extrajudicial executions, and villagers were subject to persecution and had their land, houses and livestock confiscated or destroyed. In many cases, the land was taken by Beydanes or given to Haratines, who had been armed by the authorities and expected to arrange their own defence.[50]

39. There is an especially deep distrust among Afro-Mauritanian groups of the 1983 land law and related decrees, which are seen as tools to dispossess them of their lands. The legacy of the *passif humanitaire*, which involved the large-scale confiscation and redistribution of lands that they farmed, only exacerbated this distrust. In a study carried out by a non-governmental organization, around 100 "returnee villages" in which there are outstanding land conflicts were identified in the wilayas of Trarza, Brakna, Gorgol, Guidimakha and Assaba. In a landmark decision in 2000, the African Commission on Human and Peoples' Rights recommended that the Government of Mauritania take diligent measures to address the plight of the victims of the *passif humanitaire*, including through the "restitution of the belongings looted from them at the time of the said expulsion; and to take the necessary steps for the reparation of the deprivations of the victims".[51] However, in a review of the implementation measures submitted to the Commission in 2011, it was found that, despite various forms of assistance provided, only 220 hectares of land had been returned to a few returnees and local communities.[52]

40. The *passif humanitaire* and the related confiscation of land further exacerbated the problems that had already resulted from the adoption of the 1983 land law. In particular, there is still significant confusion on the part of those concerned about the regulations and procedures designed to implement the law.[53] The State has done very little to inform the population in this regard and has thus prompted even greater distrust of its intentions. Decisions taken by hakems, walis and the land commission to remove traditional land users and to allocate the land to external investors are widely considered to have been taken without proper consultation of those affected or without transparency and without proper notice. Reviews by other administrative authorities of local decisions, including the commissions set up under Decree 2014.075 of May 2014, are considered to be formalities and based solely on the limited information available in the relevant file, while the courts are unable to review land conflicts that involve traditional collectives. Finally, major problems stem from the fact that the vast majority of farmers who had worked the land for generations, often as part of collective entities, have no legal titles to the land. The World Bank estimates that there are only 27,000 formal property titles recorded in Mauritania

[47] John Grayzel, "Modernizing land tenure in Mauritania".

[48] Baring Foundation and Anti-Slavery International, "Programme de prévention et de résolution des conflits intercommunautaires en Mauritanie", p. 16.

[49] African Commission on Human and Peoples' Rights, communications Nos. 54/91, 61/91, 98/93, 164/97-196/97 and 210/98, *Malawi African Association and Others v. Mauritania*, decision adopted on 11 May 2000, paras. 13-14.

[50] Ibid., para. 17.

[51] Ibid., recommendations to the Government.

[52] African Commission on Human and Peoples' Rights, communications Nos. 54/91, 61/91, 98/93, 164/97-196/97 and 210/98, *Malawi African Association and Others v. Mauritania*, Implementation dossier, para. 33.

[53] See for example, decrees Nos. 2000/089 (2000), 2010/080 (2010) and 2014/75 (2014).

(only 3,177 of which relate to Trarza, Brakna, Gorgol and Guidimakha wilayas), out of an estimated 2 million potential landowners.[54] Those who are without titles live in severe insecurity because they are unable to register land that is owned either individually or collectively.[55] Even when land titles are issued, they are initially only temporary and on condition that the owner proves that he or she will add value to the land. In discussions with the hakem of Bogué, it was indicated that 30 per cent of land registrations in the area were of a temporary nature.

41. The Special Rapporteur visited villages in the wilayas of Brakna and Trarza that had been affected by land confiscations in the context of the *passif humanitaire* as well as more recently. The accounts provided by the villagers and the copies of petitions that they had sent to the relevant authorities over the years paint a consistent picture. In many cases, villagers have been deprived of large parcels of land that their communities had occupied and worked on for many generations. This was done without proper consultation and no compensation. Some of the farmers had been arrested and detained after protesting the decisions affecting their land tenure. Their lands were usually reallocated to Beydane businessmen or foreign investors and many suspect that corruption played a role in those decisions. The land that remains to them is not sufficient to provide a living and their access is often impeded by large-scale agribusiness projects, which rarely offer employment to the local population. Many young people have migrated to urban areas because they no longer see a future in their home villages. It is virtually impossible for small farmers to obtain loans from banks to buy seeds, fertilizer and equipment because their land tenure is not secure. Villagers are therefore left in poverty and despair. The frustration expressed about their situation and the injustice experienced are real and serious.

42. The contrast between the perspectives of the villagers who have been forced off their lands and those of the local authorities with whom the Special Rapporteur met was striking. Various local officials, including two hakems, said that there were absolutely no land conflicts in their administrative regions and that very significant benefits flowed to the local population from the large agribusiness projects. No figures were provided to substantiate those claims. When asked about specific large-scale projects in Dar el-Barka and Tékane, the authorities justified them with sweeping assertions such as that the local population was "lazy and reluctant to work".

43. It should be noted that the Government consistently refers to the 1983 land law to argue that no expropriations have taken place, but that is because the traditional owners were dispossessed of any previous claims by the law. However, the argument that land reallocations to outside groups can be achieved without any expropriations is formalistic and unconvincing.

44. It is clear that the current system of land tenure is the source of considerable conflict, contributes to the poverty of the agricultural populations and leads to lower productivity than would result from a more secure land tenure system. Major reforms are needed along with measures to ensure the resolution of the grave injustices resulting from the land confiscations that took place in the aftermath of the *passif humanitaire*. While the overall land tenure problems are complex and manifold, one starting point might be the road map to combat the vestiges of slavery that was adopted by the Government in March 2014 on the basis of the recommendations contained in the report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences.[56] The report contains a number of recommendations, one of which relates to the creation of favourable conditions for equal access to land rights. Civil society organizations have criticized the lack of implementation of the road map to date.[57]

[54] World Bank, "Women's access to land in Mauritania", p. 6.
[55] Ibid., p. 5.
[56] See A/HRC/15/20/Add.2.
[57] See http://unpo.org/article/18958.

C. Civil registry

45. The adamant insistence on the part of the Government that it cannot take account of ethnicity in its policies has the effect of reinforcing the status quo. An egregious example of this is the fact that individuals from the less-favoured groups — Haratines and Afro-Mauritanians — make up the overwhelming majority of those who have been unable to obtain a national identity card, without which very little can be done in Mauritania. Despite requests to the Government by the Special Rapporteur for an estimate of how many adults in Mauritania lack proof of registration of civil status in the form of a national identity card, no convincing answers were forthcoming. Although the problem is clearly a major one, the Government either does not know, or is unwilling to disclose, how many people have not been registered. Persons without an identity card cannot attend school beyond the primary level,[58] cannot qualify for many government benefits, cannot vote and generally cannot own land. The bureaucracy responsible for issuing identity cards is cumbersome and determinedly unresponsive and challenging the system is beyond the means of most of those affected. Appeals must be brought before the court, and a host of bureaucratic arrangements have been introduced by law and in practice, which have the effect of deterring many applicants, most of whom are Haratine or Afro-Mauritanian.

46. Although by no means limited to them, the resulting system is especially problematic for those Afro-Mauritanians who were expelled in the late 1980s and early 1990s in the context of the *passif humanitaire*, whose identity documents were confiscated or lost, and who, upon return, have encountered severe difficulties in obtaining identity documents in order to enjoy full citizenship rights.[59] This group can roughly be divided into two groups: those who returned voluntarily, mostly in the 1990s, and those who returned as the result of a tripartite agreement between Mauritania, Senegal and the Office of the United Nations High Commissioner for Refugees in 2007. Both groups have had serious problems obtaining identity cards, although the latter group has benefited from protections under the tripartite agreement.

V. Anti-poverty framework of Mauritania

A. Tadamoun

47. Tadamoun — the National Agency for the Eradication of the Vestiges of Slavery, Social Integration and Action to Fight Poverty — was established in 2013 with three separate but related mandates: to combat poverty, to address the consequences of slavery and to design and implement programmes to promote the reintegration of Mauritanian returnees who had fled during the *passif humanitaire*. The agency has opted to take a very low profile in relation to the last two roles. Instead, its management argues that general anti-poverty development projects will best address all three mandates, thus relieving it of the need to design special programmes or policies to focus on the particular needs of the two specific groups that it was set up to address. This policy is defended on the grounds that it is better not to single out particular groups for advantageous treatment, let alone acknowledge that ethnicity is at the heart of much of the poverty in the country. When asked about the composition of the agency and whether it sought to achieve any sort of ethnic balance among its staff, the Director General replied adamantly that such an approach was unthinkable and that ethnicity was neither a relevant nor an appropriate consideration. This position seems especially difficult to defend in a society in which virtually every person outside of Government with whom the Special Rapporteur spoke

[58] The latest obstacle imposed by the Government is Circular No. 20 of 20 April 2016, which requires all children aged 10 and over to have an identity card to sit for exams at the end of the primary school cycle.

[59] African Commission on Human and Peoples' Rights, communications Nos. 54/91, 61/91, 98/93, 164/97-196/97 and 210/98, *Malawi African Association and Others v. Mauritania*, Implementation dossier, paras. 16-25.

suggested that most things in Mauritanian society and, above all, in politics, are decided on the basis of ethnic considerations.

48. In any event, the overall policy option chosen by the Government means that its lead agency is not directly addressing two of the most urgent social problems in the country. While Tadamoun calls itself a development agency, in practice it acts more like a charitable organization seeking to leave its mark through construction activities. The 2014-2015 report of the agency contains a list of schools, health facilities, dams, wells and social housing that have been constructed, as well as materials and goods, such as milk cows, ploughs and grain mills, that have been provided to repatriated households. The agency has provided very few details as to how priorities are set, beneficiaries selected and sustainability ensured. The agency is generally neither responsible for, nor engaged in, the process of making its constructions operational. Schools and health centres are simply turned over to the relevant authorities in the hope that they will find the human resources and administrative capacity to operate, maintain and repair the facilities, often in situations where no such capacity or will has previously been demonstrated.

49. The roughly $20-million annual budget of the agency is depressingly small in relation to the enormity of the problems it is supposed to address. In identifying priority concerns or areas or in selecting particular projects to fund, the agency does not appear to operate on the basis of established and transparent criteria. Whatever the reality of its methods of functioning, such an approach leaves the agency open to allegations of patronage and favouritism and suggestions that it is not primarily concerned with the principled targeting of the needs of the most vulnerable members of society.

50. Tadamoun officials encouraged the Special Rapporteur to visit some of its major projects but, since his visit programme had been set long before the suggestion was made, he was only able to visit one project: a school built in 2015 in Dar el-Barka, but which was not yet open. The school, built at a cost of 84 million ouguiyas is an impressive edifice, towering like a yellow Taj Mahal in the midst of a very poor and not especially densely populated desert area. It is clearly a matter of great pride for both Tadamoun and the local authorities and has impressive offices for administrators and classrooms equipped with rows of brand new desks and vast blackboards.

51. The new school is a dramatic contrast with other schools that the Special Rapporteur visited, which were hugely overcrowded, grossly understaffed, lacked a reliable water supply and, in some cases, lacked functioning toilets. Interlocutors assured the Special Rapporteur that the school was on a scale unprecedented even in Nouakchott. However, it is not at all clear whether such a grandiose school is viable in terms of availability of teachers, money for upkeep and the possibility of ensuring adequate water supply and toilets. Even if the new school proves to be the exception and remains viable, the question still remains as to whether the scarce resources available to Tadamoun are best spent on constructing a handful of grand symbolic structures or should rather be devoted to the vast and pressing unmet needs of existing schools around the country, whose buildings are falling down, whose toilets do not work and which have serious problems attracting and retaining teachers because the facilities and accommodation available are so poor.

B. Cash transfer system and Emel shops

52. A significant part of public social expenditure (excluding education and health care) relates to the Emel programme, which was started in 2011 in response to a severe drought and related food insecurity. The largest component of the programme is the Emel shops, a network of subsidized food shops around the country. Public spending on the programme peaked in 2012 at 32.72 billion ouguiyas, declined to between 12.9 billion and 14.4 billion ouguiyas in 2013,[60] then rose to 21 billion ouguiyas in 2015 and is expected to reach 21.79 billion ouguiyas in 2016. The programme is financed largely from domestic resources, but

[60] Aline Coudouel and Thomas Dickinson, *Building on crisis response to promote long-term development: a review of social safety net programs in the Islamic Republic of Mauritania — 2008-2013* (Washington D.C., World Bank Group, 2014), p. 15.

the Ministry of Economy and Finance and the international financial institutions consider that it is excessively expensive and a highly inefficient way of targeting the extremely poor.

53. In April 2015, the Government and the International Development Association of the World Bank agreed on a project to introduce a cash transfer programme, accompanied by a social registry of all poor households. Funding for this $29-million project will come from the World Bank ($15 million), the Sahel Adaptive Social Protection Multi Donor Trust Fund ($4 million from the United Kingdom of Great Britain and Northern Ireland) and the Government of Mauritania ($10 million) over a period of five years. Project documents indicate that the cash transfer system could make it possible to phase out the Emel programme, thus enabling significant overall savings and providing resources for the cash transfer programme as well as possible "cash plus" social programmes. While no decision has yet been taken to this effect, the option is definitely on the table, although it is not being publicly discussed.

54. The first phase of the project is to set up a national social registry to track the poorest 150,000 households, 100,000 of which will eventually receive cash transfers. The registry might also be used for other purposes. The methodology for identifying registered households is as follows: (a) set quotas per geographical, rather than administrative, areas for the number of poor households to be included; (b) a targeting committee for each area would identify the poor households in the area, in accordance with the quota; and (c) selected households would complete proxy means test questionnaires on the basis of which non-poor households can be filtered out. A complaint mechanism is foreseen for those who believe that they have been unfairly excluded from the registry.

55. In the second phase of the project, a nationwide cash transfer programme will pay 15,000 ouguiyas ($42) every three months to 100,000 poor households, at a cost of 6 billion ouguiyas per year. The programme will be administered by Tadamoun. According to current plans, cash transfers will not be conditional on the recipient meeting certain requirements, such as enrolling children in school or participating in vaccination programmes. The reason cited for avoiding such conditions is telling: the unavailability of education and health-care services for the poor in Mauritania would make such conditions unreasonable.

56. Several observations on the programme are in order, based on the extensive discussions that the Special Rapporteur had with government experts and staff of international organizations and on his field visits to M'bout in Gorgol wilaya, where the first phase of the project was being rolled out, and to the villages of N'Dadj-Beni Choufra and Kouedi, where he spoke to individuals who had been selected for registration in the social registry.

57. In 2013, Mauritania adopted a national social protection strategy, which contains a broad and multidimensional concept of social protection, explicitly recognizes social protection as a human right and ties social protection to the implementation of the International Labour Organization Social Protection Floor Initiative. Since the adoption of the strategy, most social protection efforts have focused narrowly on food assistance, which is only one of the five pillars of the strategy. While a nationwide cash transfer programme could be an important element of an overall social protection policy, there are concerns that the cash transfer programme will effectively crowd out other programmes relating to the pillars of the strategy. Although the strategy was accompanied by the introduction of an institutional mechanism to coordinate social protection measures, that mechanism has been described as dysfunctional and without a clear ownership among line ministries.

58. Various interlocutors have criticized the Emel shops for having an urban bias; not reaching the extremely poor who do not even have enough money to buy food in subsidized stores; being inefficient owing to the high costs involved in operating the shops;[61] and providing opportunities for corruption. Despite these shortcomings in a programme originally set up only as a temporary emergency measure, it is now in its sixth year and many Mauritanians rely heavily on this network of more than 1,000 shops. In a poor

[61] Ibid., p. 24.

country like Mauritania, where some 70 per cent of the food is imported, the closing down of a programme that supports a sizeable part of the population in accessing food should be approached carefully, taking into account the social unrest experienced in other countries in the wake of the elimination of food subsidies in a context of volatile world food prices.[62]

59. While Emel spending for 2016 is approximately 22 billion ouguiyas, the cash transfers currently envisaged will only cost 6 billion ouguiyas, not including administrative costs. The Minister of Economy and Finance has suggested that funds freed up by phasing out the Emel programme would go to the cash transfer programme and other social protection measures, however, this does not seem to be the expectation of any other actors. It is crucial for success in eradicating poverty in Mauritania that at least current overall levels of spending on social protection measures be maintained.

60. In addition, while the World Bank is convinced that the poorest people can be accurately targeted, such scientific accuracy seems unlikely in practice. Identifying the poorest in a community is not a straightforward process. Much depends on the definition and procedures used. The current methodology may prevent so-called inclusion errors, but there are doubts as to whether it can prevent exclusion errors. Households are selected on the basis of a grouping of villages, which opens up the possibility for discrimination and conflicts among villages and villagers. This is especially problematic in Mauritania where ethnic minorities live closely together and sometimes share a troubled common history. It also remains unclear who has the final say in the selection of poor households and to what extent the process involves genuine consultation and participation. A hotline is foreseen for those who believe that they have been wrongly excluded, however, in the Mauritanian context, it is doubtful that such a complaint mechanism could be either genuinely accessible or independent. It is hoped that after the initial phase of the programme, stakeholders will be given the opportunity to evaluate the targeting methodology and propose improvements.

61. Several other observations are in order. A cash transfer of 15,000 ouguiyas every three months equates to only about one third of the monthly income at the national poverty line. Based on conversations with experts, this seems too low to achieve the desired impact on the lives of the targeted households. Although government officials have suggested that a higher amount would encourage indolence and dependence, this seems unlikely. Failure to adjust the amount to reflect household size is problematic. Neither the cash transfer programme nor the social registry are anchored in law, therefore they could be eliminated at any stage. Similarly, eligibility requirements are not spelled out and there is no requirement to actually set up a complaints mechanism. Finally, the source of future financing for the programme is uncertain, thus raising doubts about its sustainability.

VI. Challenges to eliminating extreme poverty

A. Lack of recognition of social and economic rights

62. Economic, social and cultural rights are referred to in the preamble of the Constitution, but are not addressed in any substantive provisions, nor are they recognized in any meaningful way in legislative form. Official recognition would begin to transform the way in which policies are conceived, formulated and implemented in Mauritania. Instead of being rights based, Mauritania's social policies are conceived more in terms of charitable acts towards its citizens. While charitable obligations are an important and admirable part of Islamic doctrine, they do not capture the nature and scope of the formal obligations owing to its inhabitants under international human rights law.

[62] Marc F. Bellemare, "Rising food prices, food price volatility and social unrest", *American Journal of Agricultural Economics*, vol. 97, No. 1, January 2015, pp. 1-21.

B. Lack of accurate and disaggregated data

63. Mauritania has a strong professional National Statistics Office, but when sensitive issues such as ethnicity are involved, political manipulation of data collection, analysis and dissemination come into play. As a result of the manipulation of the data and the refusal to disaggregate it in terms of ethnicity, language and other such vital dimensions, it is extremely difficult to obtain an accurate picture or design effective policies.

C. Corruption and lack of transparency

64. Mauritania ranks 112th on the Transparency International Corruption Perceptions Index (2015). High levels of corruption have led the Committee on Economic, Social and Cultural Rights to call upon the Government to intensify its efforts to combat corruption and the associated impunity and ensure the transparency of the conduct of public affairs, in law and in practice.[63] Corruption and lack of transparency are barriers to the eradication of poverty because resources are used inefficiently. Given the importance of tax revenues from the extractive sector, improved transparency is crucial.[64]

D. Lack of civil society space

65. Despite the rhetoric about participatory and community-based approaches, the Government shows little interest in citizen or civil society participation in public decision-making. Instead, NGOs other than those supportive of or supported by the Government are considered suspect at best. Various government interlocutors described civil society as being intent on destabilizing Mauritania. The law requiring NGOs to obtain prior authorization from the Minister of the Interior is applied very restrictively. As a result, many groups are "unauthorized", which seriously obstructs their ability to function properly and to exercise their right to freedom of association.[65]

66. This legislative obstacle to forming civil society organizations is part of a broader pattern. Local activists have been repeatedly detained during protests against land expropriations and other land-related issues in the Senegal River Valley. The best-known case is that of Biram Dah Ould Abeid, President of the Initiative for the Resurgence of the Abolitionist Movement (IRA-Mauritania) and 2014 presidential candidate, who was arrested in Rosso, Trarza wilaya, in November 2014, and detained for over 18 months. Subsequently, between 30 June and 9 July 2016, 13 key IRA-Mauritania members were reportedly arrested, along with 10 other individuals, in connection with a protest against forced evictions in Ksar, Nouakchott, on 29 June 2016, during which several people, including police officers, were wounded.[66] The IRA-Mauritania activists were reportedly accused of rebellion, use of violence, attack against public authority, armed assembly and membership in an unrecognized organization. They have denied having participated in or organized the eviction protest. There are strong indications that the arrests and convictions were politically motivated and targeted at the anti-slavery activism of the group. The Special Rapporteur expresses particular concern that these arrests took place shortly after his visit to Mauritania in May 2016 and may have been partly in reprisal for the group's cooperation with him during his visit. The trial of the IRA-Mauritania members was

[63] See E/C.12/MRT/CO/1, para. 9.

[64] See IMF, *The Islamic Republic of Mauritania*, Country report No. 15/35, February 2014, p. 14. Available from www.imf.org/external/pubs/cat/longres.aspx?sk=42703.0; and Extractive Industries Transparency Initiative, *Rapport d'activités de l'année 2013 du Comité National de l'ITIE de la République Islamique de Mauritanie*. Available from https://eiti.org/sites/default/files/documents/2013_mauritania_annual_activity_report_fr.pdf.

[65] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16302&LangID=E.

[66] See A/HRC/34/75, Communication sent to the Government of Mauritania by eight special procedure mandate holders (MRT 1/2016) on 2 August 2016.

reportedly marred by irregularities and fell short of international standards.[67] On 18 August 2016, the Criminal Court of West Nouakchott sentenced the 13 activists to 3 to 15 years' imprisonment, allegedly on the basis of insufficient evidence, and dismissed credible claims of torture while in detention. On appeal, the matter was transferred away from Nouakchott to the Court of Appeal in Nouadhibou and the 13 activists were reportedly transferred to a prison in Zouérate, over 700 kilometres from Nouakchott. Ten of the 13 activists whose conviction was upheld on appeal were subsequently transferred to a prison in Bir Moghrein, an even more remote location over 1,200 kilometres from Nouakchott with no access to lawyers, medical services or their families. These measures could only be interpreted as an attempt to completely isolate and silence the activists.

67. Before and during his visit, the Special Rapporteur spoke with representatives of at least 50 Mauritanian NGOs. Nevertheless, after the completion of the mission, he was strongly criticized by some NGOs for being selective in his choice of interlocutors. The Special Rapporteur emphasizes that all major groups were invited to meet with him and he received inputs from across the spectrum. Representatives of several NGOs subsequently met with him in Geneva and emphasized their opposition to all of his recommendations, which they considered to be critical of government policy.

68. The real challenge for the Government and the NGOs that it supports is to understand that a vibrant and diverse civil society facilitates meaningful popular involvement, enables constructive inputs to policymaking processes, reduces the likelihood of alienation and is a crucial part of democracy.

E. Coordination by donors

69. The social development programmes of the Government are too often ad hoc and designed to reward powerful constituencies rather than respond to needs. International donors play a key role, but have done too little to encourage more principled and systematic policies by the Government or to promote the sort of coordination that would greatly enhance their combined impact.

VII. Conclusion and recommendations

70. **In addition to the recommendations on the cash transfer programme set out at the end of the mission statement, the Special Rapporteur makes the following specific recommendations to the Government of Mauritania, focusing on some of the critical problems and components of the anti-poverty framework in Mauritania.**

71. **With respect to the Strategy for Accelerated Growth and Shared Prosperity, the Special Rapporteur recommends as follows:**

(a) **if it is to be truly relevant, the strategy needs to be based on a realistic account of the current situation, with set manageable and measurable targets, and to identify precisely who will implement the policies and how;**

(b) **The objectives that do not take into account the huge variations in the challenges facing different ethnic groups will obscure the real problems and undermine the targeted policymaking to which the Government is committed. This can only be achieved on the basis of census data that acknowledge ethnic affiliations;**

(c) **The Government should acknowledge its extensive international human rights obligations; recognize specific economic and social rights; identify institutional arrangements to promote them; and establish a monitoring mechanism. In particular, the strategy should include a water component premised on the Government's obligations relating to the right to water and containing precise, measurable and realistic targets that make it possible to hold the Government to account;**

[67] Ibid. See also www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20699&LangID=E.

(d) **The strategy should reflect extensive and authentic consultation with a wide spectrum of civil society. To that end,**

(i) **Relevant draft proposals should be published in the newspapers and on websites;**

(ii) **Civil society should be given sufficient time to respond to the proposals in writing;**

(iii) **Public hearings should be held;**

(iv) **The final version of the strategy should indicate how civil society inputs have been reflected;**

(e) **The Government should specify that social protection is a key element of the anti-poverty strategy, along the lines of the 2013 National Social Protection Strategy.**

72. **In order to address the problems of insecure land tenure, the Government should at least take the following steps:**

(a) **Organize a national dialogue on land issues that gives all affected communities and individuals a genuine opportunity to express their concerns and propose solutions to the insecurity of land tenure, including the problems of confiscations and evictions and the legacy of the *passif humanitaire*;**

(b) **Organize, in cooperation with a wide array of civil society organizations, an information campaign to ensure that all affected populations are aware of the basic rules and procedures of the 1983 land law (Ordinance 83-127) and related decrees, and ensure that the means of communication used enable all affected communities and individuals to access and understand the relevant information;**

(c) **Effectuate a major revision of the legal framework relating to land tenure, on the basis of extensive consultation with the affected communities and individuals.**

73. **The compliance of the National Commission on Human Rights with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) should be urgently reassessed by the Global Alliance of National Human Rights Institutions in order to accurately reflect its lack of independence and its minimal contributions to promoting respect for human rights.**

74. **Consideration should be given to the establishment of a Friends of Mauritania group, in which the major donors could discuss priorities in advance of their regular meetings with the Government.**

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to China

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extreme poverty and human rights, Philip Alston, on his mission to China from 15 to 23 August 2016. The purpose of the visit was to evaluate and to report to the Human Rights Council on the extent to which the policies and programmes of China relating to extreme poverty are consistent with the country's human rights obligations and to offer constructive recommendations to the Government and other stakeholders.

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to China*

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* Circulated in the language of submission and Chinese.

I. Introduction

1. Pursuant to Human Rights Council resolutions 8/11 and 26/3, the Special Rapporteur on extreme poverty and human rights visited China from 15 to 23 August 2016. The purpose of the visit was to evaluate and to report to the Human Rights Council on the extent to which Chinese policies and programmes relating to extreme poverty are consistent with the country's human rights obligations and to offer constructive recommendations to the Government and other stakeholders.

2. The Special Rapporteur is grateful to the Government for inviting him to China and for the opportunity to meet with officials from the Ministry of Foreign Affairs, the State Council Leading Group Office of Poverty Alleviation and Development, the Ministry of Education, the National Health and Family Planning Commission, the Ministry of Justice, the Ministry of Public Security, the Ministry of Land and Resources, the National Committee on Ageing, the National Bureau of Statistics, the Ministry of Civil Affairs, the State Ethnic Affairs Commission, the Social Law Commission of the National People's Congress, and a judge of the Supreme People's Court. The Special Rapporteur also met with representatives of international organizations, members of the diplomatic community, scholars at the Chinese Academy of Social Sciences, independent academics, domestic and foreign civil society organizations, human rights lawyers and human rights defenders.

3. During a visit to Yunnan Province, the Special Rapporteur met with officials from various provincial government departments, including the Poverty Alleviation and Development Office, the Ethnic and Religious Affairs Commission, the Department of Agriculture and the Women's Federation. He also met with experts from the Yunnan Academy of Social Sciences and undertook a government-organized visit to a service centre for disabled persons in Wuhua District, Kunming, and to poverty alleviation projects in Zixi Yi Village and in the Yunnan Red Pear Industrial Base in Fengtun Town, Chuxiong Yi Autonomous Prefecture.

4. The Special Rapporteur greatly appreciates the assistance given to him by various international organizations and non-governmental organizations (NGOs) and by experts who provided in-depth briefings before and during his mission to China.

II. Government cooperation

5. China has actively participated in the international human rights system for more than three decades, although it has not issued a standing invitation for country visits by special procedure mandate holders. Between 1997 and 2015, six mandate holders visited: on arbitrary detention (1997 and 2004); torture (2005); the right to education (2003); the right to food (2010); discrimination against women in law and in practice (2013); and foreign debt (2015). The Special Rapporteur notes that under the new National Human Rights Action Plan, more visits are envisaged for the future.[1] The Special Rapporteur also urges consideration of the issuance of a standing invitation, and a preparedness to engage with mandate holders dealing with the full range of human rights.

6. The Special Rapporteur commends the Government for inviting him to China, but would also wish to draw attention to some difficulties that arose in the course of the mission:

(a) The Government's view that it was fully responsible for determining every detail of the agenda of the visit reflects a misunderstanding of the role of special rapporteurs as independent experts;

(b) The Government advised the Special Rapporteur not to make direct contact with civil society organizations to arrange meetings, and requested full details of any

[1] National Human Rights Action Plan of China (2016-2020), 29 September 2016. Available from http://english.gov.cn/archive/publications/2016/09/29/content_281475454482622.htm.

private meetings held. However, in conformity with established procedures, he notified the Government only when requested to do so by the civil society actor concerned;

(c) The Special Rapporteur was regularly followed by security officers posing as private citizens, thus making it virtually impossible to meet privately with civil society organizations and individuals;

(d) The Government warned the Special Rapporteur not to meet with individuals it considered "sensitive", and those individuals were warned not to meet with the Special Rapporteur; in one case, a person with whom the Special Rapporteur was supposed to meet was taken into custody for a couple of hours, thus preventing the meeting from happening;

(e) As a result of these combined measures, the Special Rapporteur was unable to meet with the great majority of civil society actors with any degree of freedom or confidentiality;

(f) The Yunnan visit was organized by the Government in a way that ignored the Special Rapporteur's stated preferences and ensured that most of the meetings and other activities were formalities;

(g) Both during and after the mission, certain individuals with whom the Special Rapporteur met or was supposed to meet were subjected to what appear to be acts of intimidation and reprisal. These matters were taken up by the Special Rapporteur, along with other relevant special procedure mandate holders, in a communication to the Government on 26 October 2016.[2] This group subsequently issued a press release, on 6 December 2016,[3] after the disappearance on 21 November 2016 of human rights lawyer Jiang Tianyong, whom the Special Rapporteur had met in Beijing.

7. The ability of the special procedure mandate holders to carry out their tasks of promoting and protecting human rights depends on their being able to engage in free and unsupervised communication with civil society and private individuals, before, during and after country visits. This applies as much to visits to China as to any other country.

8. A mandate holder's programme is organized in consultation with the Government, but this does not mean that the Government is entitled to determine and control every aspect of the agenda or to insist that, apart from government officials, meetings can only be held with "approved" non-governmental actors. A mission conducted on that basis would not enable a special rapporteur to discharge his or her obligation to establish the facts impartially and independently. The resulting report would rightly be criticized for providing only an incomplete and distorted picture.

9. The basis on which United Nations human rights fact-finding missions are undertaken by special procedure mandate holders reflects long-standing practice spanning many decades — including initial sets of standards adopted in the 1950s and 1960s, the terms of reference adopted for the 1978 mission to Chile,[4] and follow-up work by the Commission on Human Rights and the Economic and Social Council.[5]

10. The procedural arrangements that were agreed in the late 1970s have been followed ever since, and were reflected in the 1998 terms of reference for fact-finding missions by special rapporteurs/representatives of the Commission on Human Rights[6] and in the 1999 special procedures' manual of operations. In discussions following the mission, the Government of China has suggested that the terms of reference, as updated in 2016, are not applicable because they have not been formally endorsed by the Human Rights Council. But this argument overlooks the fact that the Council adopted the Code of Conduct for Special Procedures Mandate Holders in 2007, which explicitly took note of the 1999 manual, which in turn was officially adopted in August 2000.

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[2] See https://spcommreports.ohchr.org/TmSearch/SearchSessionNumber?number=34.

[3] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20987.

[4] See A/33/331, annex VII.

[5] See A/33/331, annexes VI and VII, and Economic and Social Council resolution 1870 (LVI).

[6] See E/CN.4/1998/45.

11. Both the 2007 code of conduct and 2008 revised manual of operations, which the Council noted are to be read "in consonance" with one another, emphasize the importance of experts acting "in an independent capacity", having the "freedom to assess" situations, establishing "facts, based on objective, reliable information", preserving "the confidentiality of sources", establishing a dialogue not only with government authorities but also "with all other stakeholders" and having their security protected "without prejudice to the privacy and confidentiality that mandate holders require to fulfil their mandate".[7] The position expressed by the Government is clearly not compatible with these long-established principles.

III. Achievements

12. Over the past three decades, and with particular speed in recent years, China has lifted hundreds of millions of people out of poverty. This is a staggering achievement and is a credit to those responsible. But, although precise figures are often given, it is surprisingly difficult to know exactly what the numbers are. This is partly because different time periods are used, different criteria are applied and different sources are used. Figures from official institutions and from the World Bank range between 500 million and 767 million. Officials now tend to use the figure of 700 million.[8]

13. Equally impressive is the fact that progress has not only been made in terms of addressing income-based poverty, but also in terms of meeting a diverse array of social goals. A few examples must suffice. In 2003, only 10 per cent of the population had health insurance. By 2013, some 95 per cent were covered, including most of the rural poor and the vulnerable urban groups. In 2009, only 240 million people were covered by pension schemes and 58 million were actually receiving pensions. By 2014, coverage was up to 842 million and recipients up to 229 million. Far-reaching social assistance programmes have been introduced, such as Wubao for the elderly, people with disabilities and juveniles, and Dibao to provide cash or in-kind support to poor households living below a locally defined poverty line. Between 2000 and 2012, the infant mortality rate fell by 60 per cent and the maternal mortality rate fell by 49 per cent. Life expectancy at birth rose from 67 to 76.3 years from 1990 to 2015.[9]

14. If there are lessons to be drawn by other countries from the achievements of China, the principal ones would seem to be that (a) a well-functioning market economy is capable of generating large financial returns, including for the State; (b) governmental intervention to improve the situation of the relatively large numbers of people whom the market inevitably bypasses is essential; and (c) genuine political will to alleviate poverty is arguably the most important ingredient of all.

15. There is no shortage of reporting on human rights in China, including by the Government and its critics. Rather than going over that well-trodden ground, the present report focuses instead on the Special Rapporteur's mandate to examine the relationship between poverty alleviation and human rights. This requires drawing a clear distinction between achieving development objectives and respecting human rights obligations. The two are mutually reinforcing, but they are not synonymous. The development attainments that China has made are unquestioned, as specifically highlighted by the Special Rapporteur in his end-of-mission statement at the conclusion of his visit to China.[10] But the task of the Special Rapporteur is also to consider whether these achievements have ensured full respect for human rights in China.

16. The greatest challenge in this respect is to understand how the leading role of the Communist Party can coexist with the recognition of individual rights and the provision of

[7] See Human Rights Council resolution 5/2, annex.

[8] State Council Information Office of the People's Republic of China, "China's progress in poverty reduction and human rights", 17 October 2016. Available from http://english.gov.cn/policies/latest_releases/2016/10/17/content_281475468533275.htm.

[9] World Health Organization, "China-WHO country cooperation strategy 2016-2020", p. 2.

[10] See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20402&LangID=E.

meaningful accountability mechanisms, which are indispensable elements in a human rights framework. The challenge was well captured in the former President's report to the eighteenth Party Congress, in which he said that in order to "strengthen social development" what was needed was "a law-based social management system featuring Party committee leadership, government execution, non-governmental support and public participation".[11] Reconciling these different dimensions is not easy. In setting out below some of the concrete challenges facing China, the Special Rapporteur is constrained to be highly selective, as a result of the strict page limit imposed on the report.

IV. The challenges ahead

A. Income poverty

17. Government statistics indicate that 5.7 per cent of the rural population of China were still living in poverty at the end of 2015.[12] Rates vary significantly, from as high as 10 per cent in western China to only 1.8 per cent in eastern China. Certain groups are especially vulnerable, such as ethnic minorities, for whom the rate is 12.1 per cent, and the elderly and youth, for whom it is 7.1 per cent.

18. The President, Xi Jinping, has promised to eliminate poverty by 2020, which according to the Government means lifting 55.75 million rural people out of poverty.[13] The goal is enshrined in the thirteenth Five-Year Plan (2016-2020) and all levels of the Government and the Party have been instructed to give it the highest priority. All indications are that it will be met, even ahead of time.

19. This is an impressive and admirable goal, but several observations are in order. Firstly, the income-based benchmark used to calculate such statistics is often unclear and not always consistent. Some government officials claim that the benchmark used is higher than the World Bank minimum for measuring extreme poverty, but the figures offered alternate between 2,300 and 2,800 yuan per year. Both of these figures appear to be well below the World Bank target of $1.90 per day.

20. Secondly, comprehensive elimination is not anticipated, since for administrative purposes the goal will be considered to have been met as long as rates across the board are below a 3 per cent threshold. Thirdly, the programme is aimed at the rural poor, and does not include specific measures directed at eliminating extreme poverty in urban areas. Fourthly, experts have also questioned whether the elimination of extreme poverty is sustainable in the medium term given that the broader array of measures that is needed is currently being overshadowed by the imperative need to meet the Party's goals prior to the 100th anniversary of its founding. Finally, and most importantly for the purpose of the present report, is whether the current approach is being carried out in a manner that conforms to human rights obligations, and in particular whether it provides for meaningful accountability mechanisms.

B. Multidimensional poverty

21. The Special Rapporteur has consistently emphasized that poverty is a multidimensional phenomenon that requires consideration not just of income but also of access to basic services and of problems of exclusion. According to the 2015 *Human*

[11] See http://news.xinhuanet.com/english/special/18cpcnc/2012-11/17/c_131981259_8.htm.
[12] State Council Information Office, "China's progress in poverty reduction and human rights".
[13] See http://en.ndrc.gov.cn/newsrelease/201612/P020161207645765233498.pdf.

Development Report, 72 million people in China still live in multidimensional poverty, with a rate of 8.1 per cent in rural areas.[14]

22. There is a risk that the "tyranny of indicators" will compel officials to focus too narrowly on income-based approaches to poverty alleviation, thereby paying insufficient attention to the multidimensional aspects of poverty, despite the fact that some government officials insisted that they were not only focused on income in their work on poverty alleviation. If this is the case, it would be exceptional, since income is still the dominant paradigm used for defining and measuring poverty. For many officials, poverty continues to be seen as an essentially economic issue that can be solved through economic growth. Another obstacle to treating poverty as a multidimensional phenomenon is the lack of coordination between the key government agencies. The State Council Leading Group Office of Poverty Alleviation and Development coordinates anti-poverty policies at the level of the central Government, but lacks the hierarchical status to be effective in achieving this aim. The rank of the head of the Leading Group, currently a vice-minister, should be elevated to reflect the importance of coordinating anti-poverty policies across multiple subject areas.

C. Inequality

23. The "Chinese dream", which the Government often extols, is not one in which there is radical inequality. Nevertheless, the great progress that China has made in poverty alleviation has been accompanied by the emergence of very high levels of inequality. This has been acknowledged by the Government in the National Human Rights Action Plan for 2016-2020, which notes the "huge gap between urban and rural development".[15]

24. Between 1981 and 2007, the Gini coefficient in distribution of net household income in China grew from 0.28 to 0.49.[16] Independent data are lacking for income distribution trends since 2007, but official sources report an income Gini coefficient of 0.46 in 2015.[17] This would still put China in the top 30 most unequal countries. Independent research suggests a Gini coefficient of 0.61 in 2010, and 0.6 in 2014, which would make it one of the most unequal countries on earth.[18] The richest 1 per cent of households own one third of the country's wealth, while the poorest 25 per cent own just 1 per cent. The State Council acknowledged in 2013 that income inequality was a problem and identified 35 measures to be taken to address it.[19] But Government policies appear to have made very little impact.

25. Urban/rural inequality is especially problematic. In 2007, the ratio of urban to rural family income was 4:1, but by 2014 it had declined to 2.53:1.[20] This positive trend will need to continue if rural incomes are to catch up. But government spending has consistently favoured urban elites, to the detriment of rural dwellers and migrant workers (rural to urban migrants). This is partly a result of the decentralized fiscal system in China, which leads to large disparities in public social services expenditure per capita from region to region.[21]

26. Public transfers reinforce pre-existing inequalities, by benefiting the rich more than the poor, and the urban population more than the rural population. An unpublished study

[14] United Nations Development Programme, *Human Development Report 2015: Work for Human Development* (United Nations publication, Sales No. E.15.III.B.1), pp. 61 and 62. Calculations based on data from the 2012 China Family Panel Studies.

[15] National Human Rights Action Plan of China.

[16] Martin King Whyte, "Soaring income gaps: China in comparative perspective", *Daedalus*, vol. 143, No. 2 (spring 2014).

[17] The Economist, "Up on the farm", 14 May 2016.

[18] Martin King Whyte, "Soaring income gaps", p. 41. See also The Economist, "Up on the farm".

[19] See www.gov.cn/zwgk/2013-02/05/content_2327531.htm.

[20] Shen Ke and others, "A benevolent State against an unjust society? Inequalities in public transfers in China", unpublished (2016), p. 7.

[21] The World Bank, and the Development Research Center of the State Council, the People's Republic of China, *China 2030: Building a Modern, Harmonious and Creative Society* (2013), p. 271.

shows that the public pension system "is highly regressive, with lower income groups entitled to much less pension benefits".[22]

27. Another problem results from the hukou, which is a household registration system introduced in the 1950s. Chinese citizens have (a) an urban, non-agricultural registration; (b) an urban, agricultural registration; (c) a rural, agricultural registration; or (d) no registration at all. Those with rural, agricultural registration are at a major disadvantage in many respects. The 200 million migrant workers from the countryside who constitute up to 30 per cent of the population of some large cities have been described as a "subordinate caste", who are treated unequally in access to social services such as education, health care and social security.[23]

28. While the National Human Rights Action Plan for 2016-2020 reiterated that ongoing hukou reform would remove the differences between agricultural and non-agricultural registration,[24] various interlocutors suggested a lack of political will to enforce such reforms. There continues to be powerful resistance from urban dwellers to any hukou reforms that would provide an easier path to regularization for migrant workers. Reforms would only be feasible if accompanied by additional governmental resource allocations.

D. Importance of accurate data

29. As noted earlier, no single authoritative figure captures the number of people lifted out of extreme poverty in recent years in China. In some contexts, the discrepancies among the available estimates would not matter, but the Government has set great store on precision because of the very exact targets that it has identified. It is argued in a recent analysis of official statistics that poverty rates at the national, rural and urban levels are "much higher than the official estimates".[25] Despite the immensity of the Government's achievements, the disparate figures and the challenges to the accuracy of official sources highlight the importance of accurate and transparent data. The research study notes that "the data-collection process in official surveys lacks transparency", a problem that became clear to the Special Rapporteur in the course of his visit. Beyond references to household surveys, detailed information on sources and collection procedures is sparse. Expert interlocutors pointed to examples of negative data being withheld from publication (such as data on household catastrophic health expenditure from the 2013 National Health Services Survey), and to the unavailability of disaggregated statistics, relating especially to issues such as gender. Similarly, the International Labour Organization committee of experts responsible for monitoring the compliance by China with the child labour standards contained in the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) has expressed concern over the absence of official data on these issues.

E. Poverty alleviation approach

30. China employs a top-down approach to poverty alleviation. This was illustrated by a presentation to the Special Rapporteur from the State Council Leading Group Office of Poverty Alleviation and Development, which underlined the dominant role of the Government and the Party in poverty alleviation: "We have guided party leaders in poverty-stricken counties to focus on targeted poverty alleviation, driven the attention of party secretaries at five levels to poverty alleviation and gathered the strength of the whole Party for this task … We have appointed 128,000 teams and 540,000 cadres to cover almost all poverty-alleviation villages." While this language shows strong commitment and political will on the part of the Government and the Party, it also highlights the marginal role

[22] Shen Ke and others, "A benevolent State", p. 20.

[23] Martin King Whyte, "Soaring income gaps", p. 47.

[24] National Human Rights Action Plan of China.

[25] Chunni Zhang and others, "Are poverty rates underestimated in China? New evidence from four recent surveys", *China Economic Review*, vol. 31 (2014), p. 410.

accorded to civil society and individuals living in poverty to shape anti-poverty policies and programmes. This is problematic because the participation of these stakeholders is essential for the design and implementation of effective policies that fully respect the human rights of individuals affected.

31. This top-down approach to poverty alleviation prevails in China partly because of the Communist Party's incentive structure. Officials are assessed and promoted on the basis of their ability to meet poverty alleviation targets and to implement national anti-poverty policies and programmes. They are therefore wary of complaints that slow down and complicate implementation and have every incentive to push through programmes without taking into account the views of those affected. As a result, there is a real risk that while official targets will be met, the root causes of poverty will be insufficiently addressed.

32. The former President acknowledged in 2012 the need for a "law-based social management system" that featured, among other things, "non-governmental support and public participation".[26] But despite the rhetorical commitment to consulting civil society and promoting public participation, several interlocutors indicated that the Government saw civil society organizations primarily as service providers implementing its policies and programmes. There is thus little room for civil society organizations that are critical of the Government's approach, let alone organizations that highlight the importance of respecting the human rights of those affected by poverty alleviation work.

33. The low level of involvement of citizens in shaping anti-poverty policies was confirmed by various interlocutors. Article 11 (3) of the Provisional Measures on Social Assistance (State Council Decree No. 649 of 21 February 2014) provides that the department of civil affairs at the county level should explain in writing its decision to deny an application for subsistence security. When the Special Rapporteur asked the Ministry of Civil Affairs in Beijing what could be done by an applicant who disagreed with such a decision, it was explained that the applicant could either appeal to the Ministry or go to court. When asked how often there had been complaints or lawsuits, the Ministry's Director-General indicated that he was unaware of any, because this "was not their priority". In a meeting with the State Council Leading Group Office of Poverty Alleviation and Development, complaints about anti-poverty programmes were referred to as "a headache".

F. Equality-related challenges

34. The most significant equality-related challenge for China in its anti-poverty work relates to the situation of persons with disabilities. According to the State Council Leading Group Office of Poverty Alleviation and Development, more than 20 million of the 55.75 million rural poor have a disability. The Government persists in pursuing a "welfare approach" toward this group. In recent policy documents, such as the 2015 State Council Opinions on Accelerating the Process of Persons with Disabilities Toward a Comparatively Well-Off Life and on Establishing a Full-Scale System of Living Subsidies for Disabled Persons with Financial Difficulties and Nursing Subsidies for Persons with Serious Disabilities, the emphasis is more on welfare and subsidies than on guaranteeing the human right of persons with disabilities to education and work in order for them to participate fully and equally in Chinese society and thereby escape poverty.

35. Various international organizations and civil society organizations with whom the Special Rapporteur consulted pointed to the low level of persons with disabilities in employment. Official figures indicate that about one third to 40 per cent of all persons with disabilities are employed; that number seems unrealistically high. All public and private employers in China are required to ensure that at least 1.5 per cent of their employees are persons with disabilities, or else pay a contribution to the Disabled Persons Employment Security Fund.[27] But according to a widely cited 2012 report, the Government had only

[26] See http://news.xinhuanet.com/english/special/18cpcnc/2012-11/17/c_131981259_8.htm.

[27] State Council of the People's Republic of China Decree No. 488, Regulations on the Employment of Persons with Disabilities (2007).

recruited 92 civil servants with a disability nationwide in a five-year period.[28] If the Government itself sets such a poor example, it is unsurprising that private sector employment levels are similarly low. Most employers opt to contribute to the Disabled Persons Employment Security Fund rather than hire and accommodate employees with a disability.[29] As the Committee on the Rights of Persons with Disabilities concluded in 2012, the system addresses neither the chronic unemployment nor its root causes.[30] The Government should commit to a stricter enforcement of the 1.5 per cent rule, and thus take seriously its promise to improve "the system of providing jobs for the disabled by public institutions".[31] Great results would be achieved if the Government were to enforce the 1.5 per cent rule with the same vigour as it approaches parts of its anti-corruption campaign.

36. China has ratified the Convention on the Rights of Persons with Disabilities, in which the importance of monitoring involving civil society actors is highlighted. But few independent civil society organizations engage in such monitoring. The China Disabled Persons' Federation functions as a "national umbrella organization" for disability issues, and has about 120,000 full-time employees nationwide.[32] But it hardly qualifies as a civil society organization. Its head is a vice-minister, it performs many government functions and it is the secretariat of the State Council Working Committee on Disability.

37. The second equality-related challenge concerns gender inequality. While reference is often made to Mao Zedong's famous proclamation that "women hold up half the sky", the fact is that Chinese women get paid much less than the men who hold up the other half. The 2010 Survey on the Social Status of Women, published by the All-China Women's Federation and the National Bureau of Statistics, concluded that women in rural households earn only 56 per cent of men's wages, down from 79 per cent in 1990. In urban areas women earned 67 per cent of men's wages in 2010, down from 77 per cent in 1990.[33]

38. Despite indications that women are falling behind in terms of income equality and are overrepresented among the poor population, there is little evidence that the Government was giving special attention to gender in its anti-poverty policies. In one meeting with researchers of the Chinese Academy of Social Sciences, a government think tank, it was suggested that gender inequality was "not a serious issue" in China. This impression is confirmed when reading the Government's progress report on poverty reduction and human rights, of October 2016, according to which women only made up 36.6 per cent of the recipients of subsistence allowances and relief and assistance for those in extreme poverty.[34] Unfortunately, little is known about the impact of this neglect on women living in poverty, because the Government does not publish poverty data disaggregated by gender. The policy of refusing to do so should be overturned.

39. The third equality-related challenge relates to persons who identify themselves as lesbian, gay, bisexual, transgender or intersex. An observer is hard pressed to find any reference to this group in government anti-poverty or human rights policy documents. In the recent progress report on poverty reduction and human rights there is no mention at all of lesbian, gay, bisexual, transgender or intersex persons,[35] and the same is true for the new National Human Rights Action Plan.[36] According to a 2014 report, "no government department or specific ministry sees itself responsible for lesbian, gay, bisexual and transgender issues".[37] The Government should create a government department or ministry

[28] See www.chinadaily.com.cn/opinion/2012-12/07/content_15994021.htm.
[29] See www.chinabusinessreview.com/hiring-disabled-workers-in-china-incentives-and-challenges/.
[30] See CRPD/C/CHN/CO/1, para. 41.
[31] National Human Rights Action Plan of China.
[32] See www.cdpf.org.cn/englishold/aboutus/200804/t20080409_267487.html.
[33] United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), "Gender equality in China's economic transformation", October 2014, p. 6.
[34] State Council Information Office, "China's progress in poverty reduction and human rights".
[35] Ibid.
[36] National Human Rights Action Plan of China.
[37] United Nations Development Programme and the United States Agency for International Development, "Being LGBT in Asia: China country report" (2014), p. 11.

responsible for the rights of lesbian, gay, bisexual, transgender and intersex persons, which should immediately undertake a study on poverty in this group.

40. While transgender persons are only a small group within the lesbian, gay, bisexual, transgender and intersex community, the Government appears to be especially reluctant to face up to the policy challenges involved. Transgender persons are often condemned to live in poverty because it is exceedingly difficult for them to find employment due to the intense discrimination they face.[38] As a result, many — especially transgender women — end up as sex workers. Research by the Joint United Nations Programme on HIV/AIDS (UNAIDS) has shown that transgender women are on average 49 times more likely to acquire HIV than all adults of reproductive age.[39] There is, however, a lack of targeted HIV programming and services for this group.[40]

41. Chinese law allows for changing one's gender on identity documents, but this is possible only after undergoing sex reassignment surgery, which is extremely expensive and is not covered by health insurance plans. To qualify for such surgery, candidates first need to be diagnosed as mentally ill.[41] This huge and unwarranted barrier prevents many from undergoing surgery and thus from being able to change their gender on their identity documents, which further complicates their situation.

42. The fourth and final equality-related challenge relates to ethnic minorities in China. The Special Rapporteur sought to witness the situation first-hand by visiting rural areas of Yunnan Province, a poor part of China with a diverse range of ethnic minorities. But despite his persistent endeavours, the visit to Yunnan Province was organized entirely by the Government and in ways that defeated the Special Rapporteur's goals of meeting with people living in poverty, representatives of civil society groups not beholden to the Government, and scholars able to speak freely. Instead, photographic opportunities were provided at a model tourist village and a brand new model centre for persons with disabilities. The findings below are thus based on extensive research and conversations outside Yunnan Province with civil society organizations, experts, international organizations and the Government of China.

43. China counts 56 officially recognized ethnic minorities. The majority Han Chinese make up more than 90 per cent of the population, with ethnic minorities making up less than 10 per cent. The National Bureau of Statistics informed the Special Rapporteur that the poverty rate in eight western provinces with significant ethnic minority composition was over 12 per cent, compared to a national rate of 5.7 per cent. International organizations in Beijing estimated that ethnic minorities made up around one third of the total poor population in China, thus presenting a reality that was very different from the assurance in article 4 of the Constitution that all "nationalities" (the term used in the Constitution to refer to the various ethnic groups, majority or minority) are equal.

44. Of the 56 ethnic minorities in China, the international media, human rights NGOs and other States Members of the United Nations tend to focus almost exclusively on the plight of Tibetans and Uighurs. While those situations are deeply problematic, the reality is that most ethnic minorities in China are exposed to serious human rights challenges, including significantly higher poverty rates,[42] ethnic discrimination[43] and forced relocation.

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[38] Ibid, p. 9.

[39] UNAIDS, "The gap report" (2014), p. 91.

[40] Asia Catalyst, "My life is too dark to see the light: a survey of the living conditions of transgender female sex workers in Beijing and Shanghai" (2015).

[41] Ibid, p. 3; and UNDP and USAID, "Being LGBT in Asia: China country report", p. 9.

[42] See, for example, this recent article on dispossession of a Hui Muslim community: Qiangqiang Luo and Joel Andreas, "Using religion to resist rural dispossession: a case study of a Hui Muslim community in north-west China", *The China Quarterly*, vol. 226 (June 2016).

[43] The Committee on Economic, Social and Cultural Rights expressed concern about "persistent and widespread discrimination against ethnic minorities, particularly in the western provinces and regions, especially in the fields of employment, social security, housing, health and education". See E/C.12/CHN/CO/2, para. 14.

45. The Government's response focuses primarily on promoting economic development, which might or might not lead to improved human rights realization. The resulting policies are essentially top-down and "one size fits all" and little attention is paid to consultation or responding to complaints. When the Special Rapporteur met with the State Ethnic Affairs Commission, the central policymaking body of the State Council in regard to ethnic minorities, officials insisted that there had been "no resistance to its poverty alleviation projects" and "no protests". When asked about the number of complaints that the Commission received through its online complaint mechanism, the Special Rapporteur was assured that the number was "very small". But the Commission was unable to provide any specific data. The State Ethnic Affairs Commission should remedy this "head in the sand" approach and develop a comprehensive set of policies designed to ensure that human rights considerations are prominent in, rather than absent from, all aspects of its policymaking.

G. Rural land takings

46. Rapid urbanization over the past three decades has contributed to unprecedented economic growth and a dramatic reduction in income poverty. Urbanization is a central objective of the Communist Party, as demonstrated by the National New-type Urbanization Plan (2014-2020) and the thirteenth Five-Year Plan (2016-2020), which envisage relocation of 100 million rural residents to cities, so that 60 per cent of the total population will live in urban areas by 2020.[46] As a poverty alleviation measure, the Government has also reportedly resettled 9.91 million "impoverished people" to urban areas where they are expected to have better living and working conditions.[47]

47. This top-down focus on urbanization through relocation has been successful in some respects. The Government has developed infrastructure, industrial parks and commercial and residential buildings on a massive scale in a short span of time. However, millions of rural farmers have been rendered landless in the urbanization process. The urbanization drive in China has been underpinned by expropriation of rural land and its conversion into urban construction land. One estimate suggests that 53 million farmers have lost their land and farm-based livelihood over the past 20 years as a result of urbanization.[48]

48. Officials were adamant that rural citizens whose land was expropriated by the Government received a good deal, since they got millions of yuan in compensation and enjoyed better living conditions in the urban areas to which they had been resettled. Officials stressed the importance of property rights and of adequate procedural safeguards for land expropriation under Chinese law. However, it is difficult to reconcile this suggested "win-win" outcome with the fact that expropriations are a major and growing cause of social unrest in China. Across the country, residents affected have increasingly engaged in demonstrations to express their anger over low levels of compensation and the lack of transparency in the distribution of compensation and sale proceeds, which often benefit local governments and individual officials involved in expropriation. One study concluded that over 100,000 "mass incidents" (demonstrations involving more than 100 people) took place every year and that 60 per cent of such incidents were related to land disputes.[49]

49. Contrary to the claims of central Government officials, the lack of adequate protection for rural land rights is at the heart of the problem. The existing legal framework does not guarantee the right of affected rural residents to be consulted about expropriation plans or to have a say in expropriation decisions. Instead, expropriation is "announced" by

[46] See "Xinhua, China unveils landmark urbanization plan", 16 March 2014, available from http://news.xinhuanet.com/english/china/2014-03/16/c_133190495.htm, and "Report on China's economic, social development plan", 18 March 2016, available from www.china.org.cn/china/NPC_CPPCC_2016/2016-03/18/content_38064750_15.htm.

[47] State Council Information Office, "China's progress in poverty reduction and human rights".

[48] The World Bank, and the Development Research Center of the State Council, the People's Republic of China, *Urban China: Toward Efficient, Inclusive and Sustainable Urbanization* (2014), p. 267.

[49] Ibid., p. 282.

the local government after it has already been approved.[48] The land tenure system grants the State extremely wide discretion to expropriate land in the "public interest"[49] — an undefined term as far as rural land is concerned. In practice, the "public interest" can mean the expropriation of land for the development of commercial or industrial ventures. Those who oppose expropriation, and their supporters such as lawyers and community leaders, are often subjected to verbal threats, intimidation, loss of basic services, dismissal from jobs, and the use of force and violence by local authorities.

50. While those whose rural land is expropriated are entitled to compensation and resettlement subsidies under the Land Administration Law, of 1998, the amount of compensation is often insufficient to maintain an adequate standard of living. Compensation is calculated on the basis of the average agricultural output of the land over the three years preceding the expropriation and is capped at 30 times the average annual output. No account is taken of the fact that the value of the land invariably increases dramatically as soon as it is reclassified as non-agricultural land.[50] In some cases, the residents affected are not compensated at all. Women are especially disadvantaged by rural land takings, as rules and regulations at the village level often prevent them from receiving a fair share of the compensation paid. The reality is that the village administration often disregards women's land rights.[51]

51. Dispossessed of their land and with wholly inadequate compensation, the new "urbanized" residents often fall into poverty. They cannot find new employment in resettlement areas and cannot access urban social security benefits. A 2011 survey across 17 provinces found that only 13.9 per cent of the "urbanized" farmers had access to urban social security, and only 9.4 per cent were entitled to urban medical insurance.[52]

52. Rural land takings have thus fuelled both social inequality and a sense of injustice, particularly in view of sizeable profits made by local governments as a result of land expropriations and transactions. The Communist Party is aware of the problem and the threat that it poses to the country's stability. In a series of key policy documents, such as Document No. 1 of 2014 and 2015 and the thirteenth Five-Year Plan, the Government committed itself to important reforms related to collective property rights and expropriation of rural land, as well as compensation and social security for dispossessed farmers. However, the details of such reforms are yet to be made public and it is unclear whether and to what extent the due process rights of rural farmers will be recognized. Without such recognition the situation of many rural landowners will be unsustainable, leading to increasing protests and threatening the stability of China.

II. The human right to education

53. The Compulsory Education Law ensures the right of school-age children and adolescents to nine years of compulsory education. China has devised a great many policies and programmes to ensure that children and adolescents in fact complete those nine years of education and has spent enormous sums of money on realizing that worthy objective. Official data suggest that these policies have had a decidedly positive impact on the number of students completing junior high school. According to the "Statistical bulletin of China's national educational development", the share of students who have completed compulsory education was 99.3 per cent in 2008, 99.7 per cent in 2009 and 100 per cent in 2010. However other official sources, such as the June 2016 "Assessment report on the

[48] See art. 46 of the Land Administration Law of 1998.

[49] See art. 10 of the Constitution, and the Property Rights Law of 2007.

[50] See art. 47 of the Land Administration Law of 1998. See also Li Ping and others, "Urbanization and its implications to farmers' land rights", Landesa (December 2015), p. 10.

[51] Xiaobei Wang, "Rural women's land rights in China", paper presented at the expert group meeting on good practices in realizing women's rights to productive resources, with a focus on land, Geneva, Switzerland, 25-27 June 2012.

[52] Landesa, "Insecure land rights: the single greatest challenge facing China's sustainable development and continued stability". Available from www.landesa.org/china-survey-6/.

implementation of the Human Rights Action Plan (2012-2015)", report that only 93 per cent of enrolled students complete their nine-year compulsory education.[53]

54. While official figures suggest that China has been fulfilling its obligation to guarantee nine years of compulsory education, there is reason to be sceptical about the accuracy of official statistics. One reason is that they are obtained by extrapolating on a national scale on the basis of data from various lower levels of the education bureaucracy. Schools and lower-level governments have a strong incentive to underreport dropout rates, because of the negative financial and other consequences of reporting unsatisfactory figures. One recent empirical study suggests that the cumulative average dropout rates across rural junior high schools (years seven to nine of compulsory education) range somewhere between 17.6 per cent and 31 per cent.[54] This makes the promise by the Government that by 2020 "some 90 per cent of junior high school students shall enter senior high schools" seem overly optimistic, especially for rural students.[55]

55. There are indications that the central Government in Beijing is either not entirely aware of the situation in relation to rural dropouts or wants to avoid tackling the problem head-on. This may be due to the above-mentioned underreporting, but can also be explained by the decentralized responsibilities in the education system and a fear in Beijing of rural students migrating to the big cities. This last point was confirmed during a meeting with the Ministry of Education, where an emphasis was put on the enormous challenge of urbanization in China and the fear of "disorderly" migration of students. While the Ministry acknowledged the existence of dropouts in rural schools, the problem was downplayed by emphasizing that it only affected the third year of junior high school and only in western China. An important first step to tackle this problem is for the central Government to conduct an open and transparent inquiry and to publish the findings. It is crucial for sustainable poverty alleviation in China that the country protect the human right to education of rural children, who are at serious risk of becoming the future poor of China.

I. The human right to health

56. China has achieved great progress in improving access to health care. Through a series of health sector reforms starting in 2003, the Government introduced medical insurance schemes for rural and urban residents and made significant investments in health infrastructure. In 2009, the Government pledged to provide access to basic health-care services for all by 2020[56] and ensured that this commitment was followed through at local levels by requiring provincial and local officials to achieve certain targets for health insurance coverage as part of their performance evaluation criteria.[57] The number of persons covered by the health insurance system increased tenfold between 2003 and 2013, reaching 96.9 per cent of the total population,[58] thus achieving almost universal health coverage. Physical access to health services had increased to 83.3 per cent of the population by 2011.[59] The positive impact of the increased access to health care is clearly reflected in

[53] State Council Information Office, "Assessment report on the implementation of the Human Rights Action Plan (2012-2015)".

[54] Yaojiang Shi and others, "Dropping out of rural China's secondary schools: a mixed-methods analysis", *The China Quarterly*, vol. 224 (December 2015), p. 1052.

[55] National Human Rights Action Plan of China.

[56] Opinions of the Central Committee of the Communist Party of China and the State Council on Deepening the Health Care System Reform (2009), available from www.china.org.cn/government/scio-press-conferences/2009-04/09/content_17575378.htm.

[57] Hao Yu, "Universal insurance coverage for 1.3 billion people: what accounts for China's success?", *Health Policy*, vol. 119, No. 9 (2015), p. 1148.

[58] International Labour Office, "Extending health coverage to all: People's Republic of China", March 2016. Available from http://socialprotection-humanrights.org/wp-content/uploads/2016/04/china_healthcare-coverage-to-all_2016.pdf.

[59] Meng and others, "Trends in access to health services and financial protection in China between 2003 and 2011: a cross-sectional study", *The Lancet* (March 2012), p. 812.

the dramatic improvement in national health indicators. Between 2000 and 2012, the infant mortality rate fell by 40 per cent and the maternal mortality rate fell by 49 per cent.[60]

97. These achievements are extremely impressive, but challenges remain, particularly in ensuring the equal enjoyment of the right to health by the poor. Affordability is a particular challenge. Health care remains expensive for many Chinese citizens, as the existing insurance regime does not offer comprehensive coverage of health-related expenses. Effective reimbursement rates for inpatient care, despite having increased significantly since 2003, still remain low, at 54.6 per cent for urban residents and 43.7 per cent for rural residents, notwithstanding the targeted rates of 75 per cent and 70 per cent respectively.[61] Similarly, while out-of-pocket expenditure has been reduced by half, from 60 per cent in 2001 to 32 per cent in 2014 and then to 29.27 per cent in 2015, it remains higher than the World Health Organization (WHO) recommended benchmark of 20 per cent,[62] and the reduction has not benefited rural and urban populations equally. Out-of-pocket payments still constitute 50 per cent of total per capita health expenses for the rural population.[63]

98. The proportion of households experiencing catastrophic health expenses has not declined, remaining at 12.9 per cent in 2011.[64] The figures for 2013, which were not published by the Government, were reportedly even higher. Poor households had catastrophic health expenses twice as often as wealthier households,[65] signalling the inadequate protection that the health insurance schemes offer to low-income households. The Medical Assistance Programme, which is designed to provide a safety net for poor people who cannot afford to pay health insurance premiums and out-of-pocket medical expenses, has not significantly alleviated their financial burden. According to data on national average inpatient fees, the Medical Assistance Programme contributed to the payment of between 9 and 11 per cent of the total fees only.[66] Combined with low reimbursement rates, this effectively puts the poor in a position where they have to pay a large portion of medical fees themselves. These statistics explain why an estimated 40 per cent of the poor in rural areas become impoverished due to ill health.

99. In deepening health-care reforms for the benefit of all, including the poor, institutional reform should be high on the agenda. The institutional architecture of the health sector is fragmented in China and the responsibility for designing, planning and financing policies, and for maintaining health insurance schemes and the Medical Assistance Programme, is dispersed over various State organs and ministries, such as the National Development and Reform Commission, the National Health and Family Planning Commission, the Ministry of Human Resources and Social Security, and the Ministry of Civil Affairs.[67] This complex structure inevitably gives rise to conflict between different policies and leads to coordination problems and counterproductive interdepartmental competition for resources.

[60] WHO, *World Health Statistics 2014*.

[61] Meng and others, "Trends in access to health services and financial protection", p. 809 (table 4).

[62] World Bank Group, World Health Organization, Ministry of Finance, National Health and Family Planning Commission, and Ministry of Human Resources and Social Security, "Deepening health reform in China: building high-quality and value-based service delivery" (2016), p. 10.

[63] Ibid., p. 11.

[64] Meng and others, "Trends in access to health services and financial protection", p. 812.

[65] Ibid.

[66] Lilin Liang and John C. Langenbrunner, "The long march to universal coverage: lessons from China", Universal Health Coverage Studies Series No. 9 (2014), World Bank, p. 9.

[67] Ibid., p. 10.

V. Assessment of the record of China on economic and social rights

A. Introduction

60. China ratified the International Covenant on Economic, Social and Cultural Rights in 2001, and is a party to various other international treaties recognizing economic and social rights.[68] In white papers on human rights and in its national human rights action plans, China has consistently emphasized its commitment to guaranteeing these rights. Indeed, in the Human Rights Action Plan for 2016-2020, the first objective for the implementation of the action plan is "comprehensively safeguarding citizens' economic, social and cultural rights".[69]

61. In order to understand what is required if these rights are to be treated as human rights, rather than as broad development goals, it is helpful to understand the three types of measures that Governments should take. These involve recognition of the rights in legislative or other form, the creation of institutions to promote their realization, and the provision of accountability mechanisms to ensure redress for violations (the recognition, institutionalization and accountability ("RIA") framework[70]).

B. Recognition of economic and social rights

62. The 1982 Constitution of the People's Republic of China was amended in 2004 to provide that "the State respects and protects human rights" (art. 33). Chapter 2 lists "the fundamental rights and duties of citizens", and contains various provisions dealing with the subject matter of the International Covenant on Economic, Social and Cultural Rights. For the most part, the formulation of the relevant constitutional rights is different from that in the Covenant, and some of the rights contained in the latter have no counterpart in the Constitution. The Constitution is silent on the domestic status of treaties, including human rights treaties, and their hierarchy in the domestic legal system.[71] The Government has interpreted this silence as meaning that these treaties can only be applied by courts after being transformed into domestic law through legislative procedures.[72]

63. None of the domestic implementing laws make specific reference to the relevant treaties. Studies have shown that economic and social rights are not translated into specific human rights terms in Chinese legislation.[73] In domestic law, reference is often made in general terms to the Constitution, but never explicitly to the International Covenant on Economic, Social and Cultural Rights, or to specific Covenant-based economic and social rights, or to specific economic and social rights provisions in the Constitution. The recognition of economic and social rights in the Chinese legislative framework is all but non-existent.

C. Institutionalization

64. Many countries around the world have created a national human rights institution. In fact, there is also a human rights institution in Hong Kong, China. These institutions

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[68] Convention on the Elimination of All Forms of Discrimination against Women (1980); International Convention on the Elimination of All Forms of Racial Discrimination (1981); Convention on the Rights of the Child (1992); Convention on the Rights of Persons with Disabilities (2008).

[69] National Human Rights Action Plan of China.

[70] For a detailed elaboration of this framework, see A/HRC/32/31.

[71] Hanqin Xue and Qian Jin, "International treaties in the Chinese domestic legal system", *Chinese Journal of International Law*, vol. 8, No. 2 (2009), p. 300.

[72] See E/C.12/CHN/2, p. 9.

[73] Sanzhuan Guo, "Implementation of human rights treaties by Chinese courts: problems and prospects", *Chinese Journal of International Law*, vol. 8, No. 1 (2009), pp. 167-171.

typically offer advisory opinions to the government, advise on the harmonization of domestic practices with international legal norms, cooperate with international monitoring mechanisms, publicize human rights initiatives and promote transparency.[74] China informed the Committee on Economic, Social and Cultural Rights that although it has not established a national human rights institution, numerous departments within the Government already perform comparable functions.[75] In its concluding observations, the Committee expressed its concern about the absence of such an institution and noted that government institutions cannot effectively carry out the same roles as a national human rights institution.[76]

65. In the absence of a national human rights institution, the responsibility to promote awareness and understanding of economic and social rights as human rights falls upon government ministries and other agencies. In China, it became clear to the Special Rapporteur from conversations with officials that these bodies considered much of what they do to be devoted to the goals reflected in economic and social rights but that they generally refrained from using rights-specific language and did not consider accountability mechanisms to be relevant or necessary.

D. Accountability

66. The principle of accountability provides the overarching rationale for the recognition of human rights obligations. It primarily requires that governments are accountable to their citizens and other rights holders. The right to a remedy is recognized in the Universal Declaration of Human Rights, and international human rights law has attached particular importance to developing an understanding of the right to adequate, effective, timely and appropriate remedies, including reparations.[77]

67. There are very many contexts in China in which the economic and social rights of those living in poverty, as well as others, might potentially be violated through government action or inaction. These include, in particular, cases relating to land expropriation, environmental degradation, workers' rights, access to education, and social security entitlements. The extent of the crackdown on corruption undertaken by President Xi illustrates the extent to which Party and government officials have engaged in corrupt conduct, which is very often prejudicial to the rights of individuals. This, in turn, highlights the need for effective accountability mechanisms.

68. When the importance of accountability is acknowledged, as has been the case in relation to violations of pollution laws, the Government tends to rely almost entirely on top-down processes. The recent announcement that some 2,000 public officials had been punished following inspections in eight provinces and regions demonstrates this approach. However, officials carrying out sporadic controls on other officials is no substitute for providing regularized avenues for citizens to complain and seek remedies for relevant abuses.

69. The problem is that it is extremely difficult to identify any effective mechanisms or avenues of this sort in China, despite the plethora of procedures that exist in theory.

70. The first port of call for an aggrieved individual is the relevant government agency. Since that agency will generally be responsible for the violation, and will have no independent officials monitoring its work, the only real resort in a case that challenges official authority is the so-called "letters and visits" (*xinfang*) or "petitioning" procedure — a constitutional right protected in article 41 of the Constitution. By most accounts, this is an opaque process, dealt with by offices that are systematically understaffed, and has

[74] See General Assembly resolution 48/134, on the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

[75] See E/C.12/CHN/Q/2/Add.1.

[76] See E/C.12/CHN/CO/2.

[77] See General Assembly resolution 60/147, which contains the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

significant structural shortcomings. Despite its central importance, no meaningful statistics are available as to the number and nature of petitions submitted.[78] While relatively recent rules oblige the offices to send a response of some sort to petitioners, various interlocutors suggested they would be surprised if even 1 per cent of the cases were resolved in a manner that the petitioner would consider satisfactory. It is not surprising that petition procedures are often reported as resulting in violence against or by the petitioners.

71. Another possibility is provided for under article 90 of the Legislation Law, according to which Chinese citizens may submit written suggestions to the Standing Committee of the National People's Congress requesting a review of whether "administrative regulations, local regulations, autonomous regulations or separate regulations contradict the Constitution or laws". This seems like a promising avenue on paper, but I was informed by the relevant official at the National People's Congress that out of perhaps 100 communications received (for a population exceeding 1.3 billion), he could recall only a couple of instances over the past few years in which action had formally been taken upon the receipt of a written suggestion. More than a decade after the well-known Sun Zhigang incident and a subsequent citizen request for constitutional review that led to a repeal of the 1982 Measures on Custody and Repatriation of Vagrants and Beggars,[79] not much progress appears to have been made with regard to the regularization of this accountability mechanism. It remains as untransparent and discretionary as before.

72. Yet another option for a citizen trying to hold the authorities to account for violations of economic or social rights is to hire a lawyer. In straightforward cases of official misconduct or flouting the law, a local lawyer might be able to obtain relief. But if the matter requires the public airing of policy considerations, the crackdown on human rights lawyers, including the widely reported "709" mass arrests,[80] and the prosecution of labour lawyers,[81] have made it very difficult for lawyers to be other than governmental facilitators. Besides the more straightforward forms of intimidation of lawyers, the Government of China has strengthened its "control mechanisms" for lawyers.[82] While legal aid programmes provided by the Government are growing rapidly and are increasingly available to citizens in need, it is rare to get legal aid for cases that challenge government policies.[83]

73. Recent reforms to the Administrative Litigation Law, and measures designed to enhance the independence of the judiciary from local political influences, offer some prospect that the courts might start to play a more robust and detached role in reviewing challenges to government conduct. According to the Supreme People's Court 2015 work report, released in March 2016, courts accepted 241,000 first instance administrative cases in 2015, which was an increase of 59 per cent over 2014.[84] But the continuing influence of the Party political-legal committees that guide the work of the courts,[85] and their track

[78] One news report suggested that more than 4 million petitions involving administrative disputes have been filed annually in China. Sun Gan, "Citizens suing officials: petition cases exceed 4 million annually", *Beijing Times*, 5 November 2014.

[79] Keith Hand, "Resolving constitutional disputes in contemporary China", *University of Pennsylvania East Asia Law Review*, vol. 7, No. 1 (2011), p. 113.

[80] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17050 and www.theguardian.com/world/2016/jul/09/crap-what-you-see-families-of-seized-lawyers-send-public-warning-to-china.

[81] On 15 February 2016, the International Trade Union Confederation filed a complaint (case No. 3184) against the Government of China with the Committee on Freedom of Association — an International Labour Organization Governing Body committee — concerning the arrest and detention of eight advisers and paralegals who have provided support services to workers and workers' organizations to defend workers' rights.

[82] Eva Pils, *China's Human Rights Lawyers: Advocacy and Resistance* (2015), pp. 154-169.

[83] Fu Hualing, "Away from grass roots? The costs of the Chinese rural legal service", *Diogenes*, vol. 6 (2015), pp. 116-132.

[84] See https://supremepeoplescourtmonitor.com/2016/03/15/takeaways-from-the-supreme-peoples-court-2015-work-report/. See also www.chinadaily.com.cn/china/2016-04/05/content_24275626.htm.

[85] Ling Li, "The Chinese Communist Party and People's Courts: judicial dependence in China", *American Journal of Comparative Law*, vol. 64, No. 1 (2016).

record to date in not entertaining cases based on claims that human rights have been violated, suggests little room for optimism. As one commentator has put it, in recent years, "the authorities have sought to close down rhetoric (constitutionalism), channels (court trials) and social forces (lawyers) that activists had used to mobilize greater changes".[86]

74. Given the reluctance of the courts in relation to human rights issues, the role to be played by NGOs is potentially even more important. But in 2017, the Law on the Management of Foreign Non-Governmental Organizations has regulated the operations of foreign-based groups in China, requiring their registration with the Ministry of Public Security and greatly restricting the financing and other types of assistance that they can provide in China. Registration may be revoked and criminal sanctions applied for damaging "national interests" or "society's interests" — two phrases which are problematically open-ended and discretionary. The result in practice will be that groups that work on issues such as disability rights, women's rights, health rights and workers' rights, and economic and social rights in general, will no longer be able to rely to the same degree on technical or financial assistance from abroad. Many such groups will close down, thus further restricting the space for any meaningful policy dialogue that does not follow the Party's guidance. In addition, the new Charity Law, which regulates domestic NGOs, is already in place, and additional implementing regulations are currently being considered. These, too, are moving in the direction of strongly limiting advocacy work around policy issues. The main concern of civil society actors is that the Charity Law will perpetuate and further solidify a two-tier system between what the Government considers, in essence, "good" (service-oriented) and "bad" (policy and advocacy-oriented) domestic NGOs.

75. Overall, there is a sense of a carefully designed law-and-order pincer movement. The result is to significantly reduce the options for seeking redress or letting off steam through any legal or administrative mechanisms. This may result in even more mass protests, which are generally met with repressive measures. Academics have written that China is in a state of "rigid stability",[87] which approaches every form of protest or dissent against violations of rights as a major problem, and have claimed that the Chinese approach is paradoxical,[88] given the many investments by China in improving the legal system as well as the often-repeated recognition of the importance of the rule of law. As Amartya Sen has pointed out in regard to the approach taken by China, there is "a serious fragility in any authoritarian system of governance, since there is little recourse or remedy when the government leaders alter their goals or suppress their failures".[89] The current Chinese approach, which denies individuals meaningful access to accountability mechanisms for violations of their economic and social rights, not only contradicts the country's international human rights treaty obligations, but is also an unsustainable approach to resolving the inevitable discontent that will ultimately undermine stability. The challenge for the Government, working together with civil society actors and individual citizens, is to develop meaningful avenues for complaints about rights violations that fit within the Chinese domestic context and to enable individuals to hold all levels of government to account when individual rights are violated. Rather than conflicting with the preservation of stability, the protection of rights is an important basis for stability.[90]

VI. Conclusions and recommendations

76. **The achievements that China has made in alleviating poverty have been extraordinary. Its leadership has made a strong and genuine commitment to building**

[86] Carl Minzner, "China at the tipping point? The turn against legal reform", *Journal of Democracy* (January 2013), p. 69.

[87] Yu Jianrong, "Rigid stability", *Contemporary Chinese Thought*, vol. 46, No. 1 (2014).

[88] Benjamin Liebman, "Legal reform: China's law-stability paradox", *Daedalus*, vol. 143, No. 2 (spring 2014), pp. 96-109.

[89] Amartya Sen, "Quality of life: India vs. China", *The New York Review of Books*, 12 May 2011.

[90] See https://www.thechinastory.org/2013/01/chinas-rigid-stability-an-analysis-of-a-predicament-by-yu-jianrong-%E4%BA%8E%E5%BB%BA%E5%B5%98/.

a "moderately prosperous society" free of extreme poverty, thus showing political will that is impressive and all too uncommon in today's world.

77. The future sustainability of this record will require a focus that looks beyond meeting income targets and that addresses a broader array of social protection needs. There is also a need to produce and publish more accurate data, which is an indispensable foundation for successful policymaking in the social and economic realms.

78. While China has done a huge amount to promote economic and social well-being, this has not yet been translated into an approach based on treating economic and social rights as human rights. Most of the relevant rights are not recognized in domestic legislation, domestic institutions do not promote them as such, and existing accountability mechanisms are largely ineffectual. The biggest challenge for the future lies in designing meaningful accountability, which will, in turn, channel dissent and enhance societal stability, as well as promoting economic and social rights.

79. More specific recommendations are contained in the body of the report and are not repeated here.

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to China

Corrigendum

Paragraph 35, second sentence

For "about one third to 40 per cent" *read* "more than 40 per cent".

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to Saudi Arabia

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extreme poverty and human rights on his mission to Saudi Arabia from 8 to 19 January 2017. While the Special Rapporteur welcomed the deeply transformative economic and social agenda, such as Vision 2030, he noted with concern the absence of reliable and systematic evidence of and statistics on poverty, which are essential as a foundation for rational and informed decision-making. He furthermore found that the various social assistance programmes managed by different ministries, public authorities and charities result in an inefficient, unsustainable, poorly coordinated social protection system that is unable to provide comprehensive assistance for those who are most in need. The report addresses the challenges that persist for women in fully realizing their human rights, including the rights to work and social security, and the situations of female migrant domestic workers and non-Saudis, who are among the poorer segments of Saudi society. The Special Rapporteur recommends, inter alia, that the Government recognize the right to social protection as a human right and reflect its human rights obligations in its socioeconomic reform agenda. Meaningful consultations with and participation by the public on the reform agenda are critical, not only as a matter of human rights but also as a matter of good planning and ensuring essential public support.

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Report of the Special Rapporteur on extreme poverty and human rights on his mission to Saudi Arabia*

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* Circulated in the language of submission and Arabic only

I. Introduction

1. Pursuant to Human Rights Council resolutions 8/11 and 26/3, the Special Rapporteur on extreme poverty and human rights visited Saudi Arabia from 8 to 19 January 2017. The purpose of the visit was to report to the Council on the extent to which the Government's policies and programmes relating to extreme poverty are consistent with its human rights obligations and to offer constructive recommendations to the Government and other stakeholders.

2. The Special Rapporteur is grateful to the Government for inviting him to Saudi Arabia and to the office of the Saudi Human Rights Commission for its full support in coordinating the visit, particularly with regard to meetings with government officials. The visit was significant because it was the first visit to the Kingdom by an independent expert of the United Nations special procedures system since 2008 and only the third such visit in the last three decades. Throughout the visit, government officials highlighted the importance the Government attached to the visit and to openness in exchanges with the United Nations and other international actors. For the most part, the government officials with whom the Special Rapporteur met made a genuine effort to be transparent.

3. The Special Rapporteur met with the following authorities: the Minister of Labour and Social Development; the Minister of Housing; the Minister of Islamic Affairs; the President and other senior officials of the General Authority for Statistics; the Director-General of the General Authority of Zakat and Tax; the President of the Human Rights Commission and the Chairman of the National Society for Human Rights; the Director-General of the King Salman Humanitarian Aid and Relief Centre; senior officials of the Ministry of Economy and Planning, the Ministry of the Interior, the Ministry of Municipal and Rural Affairs, and the Ministry of Justice. At the governorate level, the Special Rapporteur met with the Prince of Riyadh and the Prince of Jizan. He also met with the Directors-General and other senior officials of the Ministry of Labour and Social Development in Jeddah and Jizan, as well as with representatives of the Committee on Human Rights, the Committee on Economy and Energy and the Committee on Social, Family and Youth Affairs of the Shura Council, and a number of government-funded institutions, including the Social Development Bank and the National Charity Fund.

4. In addition, the Special Rapporteur met with a significant number of representatives of international organizations, the diplomatic community, academic experts, charity organizations, foundations and other civil society experts.

5. The Special Rapporteur and his team also undertook a number of site visits. In the context of those visits, the Government generally respected the freedom of movement of the Special Rapporteur, as provided for under the revised terms of reference for country visits by special procedure mandate holders of the United Nations Human Rights Council.[1]

6. The Special Rapporteur greatly appreciates the assistance provided by various international and non-governmental organizations and experts who provided in-depth briefings before and during his mission to Saudi Arabia. He is particularly grateful to the United Nations Resident Coordinator and his team in Riyadh for their support.

II. Vision 2030 and the importance of human rights

7. The timing of the visit was particularly important in the light of the large-scale economic, social and cultural transformation that is currently under way in the Kingdom. Vision 2030, the National Transformation Programme 2020, the Fiscal Balance Programme and other policies all reflect an ambitious and deeply transformative agenda, driven by a combination of economic necessity, social evolution and bold political leadership. The implications for human rights are many and varied, and poverty elimination and social protection are an important part of the new strategy. The transformative agenda provides a

[1] See www.ohchr.org/Documents/HRBodies/SP/ToRs2016.pdf

context for the Government in which to reassess both human rights policy and anti-poverty policy and the interrelationship between the two.

8. The place of human rights discourse in Saudi Arabia remains somewhat ambivalent. On the one hand, government officials point to the ratification of several core international human rights treaties, its membership of the Human Rights Council, its preparation of a national human rights action plan, a sizeable Human Rights Department in the Ministry of Islamic Affairs and various other initiatives. On the other hand, some authorities also tend to view human rights as an alien concept and one that is not easily reconciled with the Kingdom's Islamic character or the dominant role of the ruling family. They are also keen to invoke sovereignty and cultural traditions as limits on engagement with human rights. However, as in most countries today, societal change in the Kingdom is driven by both external and internal factors. One third of its inhabitants are foreigners, its businesses are increasingly globalized, a high proportion of its educated elite have spent extended periods studying overseas, its citizens are avid consumers of the latest information and communications technologies, and international standards in many fields have become an integral part of the framework for public policymaking. The reality is that Saudi Arabia is now an integral and deeply connected part of the post-war global order, of which human rights is a key pillar.

9. It is therefore essential that the Government should recognize that its socioeconomic reform agenda is unavoidably linked to its human rights obligations. Vision 2030 highlights the objective that Saudis "live in accordance with the Islamic principle of moderation, are proud of their national identity and their ancient cultural heritage, enjoy a good life in a beautiful environment, are protected by caring families and are supported by an empowering social and health care system". The Vision is also said to be "built on an effective, transparent, accountable, enabling and high-performing Government".[1] It is important to underline that those objectives are not in conflict with human rights. The idea of a good life in which individuals and families are protected also lies at the heart of the human rights framework. It is compatible with human beings being "born free and equal in dignity and rights" (Universal Declaration of Human Rights, art. 1), the notion that the family "is the natural and fundamental group unit of society and is entitled to protection by society and the State" (art. 16) and, among others, with the human right to "a standard of living adequate for the health and well-being of himself and of his family" (art. 25) and to social security (art. 22).

10. The emphasis Vision 2030 puts on the accountability of the Government also resonates with the fact that "the principle of accountability provides the overarching rationale for the establishment of an international human rights regime" (see A/HRC/32/31, para. 29). That principle operates at two levels: accountability to the international community and accountability of governments to their citizens and other rights-holders.

11. The Secretary-General observed during a recent visit to the Kingdom that Vision 2030 "corresponds with the 2030 Agenda for Sustainable Development that the United Nations are promoting everywhere in the world".[2] The 2030 Agenda for Sustainable Development in turn is based on the idea that sustainable development should be grounded in the Universal Declaration of Human Rights and international human rights treaties (see General Assembly resolution 70/1). The international human rights community has long drawn attention to human rights issues in Saudi Arabia such as the arbitrary arrest and imprisonment of peaceful protesters, the use of the death penalty, discrimination against religious minorities and discrimination against women. While recent reports indicate all too little progress on most of these crucial issues,[3] it should be acknowledged that there are

[1] See http://vision2030.gov.sa/en/node/132.

[2] United Nations Secretary-General, Opening remarks at press encounter with Foreign Minister Adel bin Ahmad al-Jubeir of the Kingdom of Saudi Arabia, Riyadh, 12 February 2017. Available from www.un.org/sg/en/content/sg/speeches/2017-02-12/secretary-general%E2%80%99s-remarks-press-encounter-saudi-arabia.

[3] For example, Human Rights Watch, *World Report 2017*, p. 510. Available from www.hrw.org/world-report/2017.

other important human rights issues in the Kingdom that warrant attention, including those raised by Vision 2030. With regard to some of those issues, Saudi society is evolving in a potentially positive direction.

III. Poverty and social protection reform in Saudi Arabia

A. Poverty in Saudi Arabia

12. Many Saudis are convinced that their country is free of poverty. In discussions before and during the visit, the Special Rapporteur was often told that there are no homeless or hungry people in the Kingdom, and that the innate spirit of generosity within the society ensures that there is no poverty. While those observations are not without merit, and Saudis have much to be proud of concerning the economic development of their country in recent decades, it is also important to probe those claims more carefully.

13. In defining poverty, the Special Rapporteur has consistently emphasized that it is a multidimensional phenomenon requiring consideration not just of income and wealth, but also of other factors such as access to basic services, problems of exclusion and powerlessness. That is in line with capability and minimum rights approaches to poverty,[3] and is consistent with the approach taken by international agencies such as the United Nations Development Programme (UNDP) in its Multidimensional Poverty Index.[4]

14. It is also important to distinguish between absolute and relative poverty lines.[5] The best-known example of an absolute, unidimensional, poverty line is the World Bank's $1.90 a day standard. Clearly, such a low global standard has limited relevance for a richer country like Saudi Arabia and in such a context any meaningful measure of poverty must reflect the specific circumstances of the country.[6] It is for that reason that in richer countries like Saudi Arabia, a relative poverty line is more commonly and appropriately used.[7]

15. Until very recently, the Government carefully avoided using the term "poverty" and opted instead to speak of vulnerable or needy persons. The reluctance to confront the reality of poverty should have started to change after a groundbreaking visit in 2002 to poor areas in Riyadh by the then Crown Prince Abdullah, which led to the preparation of a National Poverty Reduction Strategy in 2005. However, the failure ever to have published the Strategy is symptomatic of a determined lack of transparency that has characterized the Government's anti-poverty work since then.

16. One of the most striking general characteristics of Saudi policymaking in the past has been the lack of reliable, and often of any, statistics worthy of the name. Virtually every observer with whom the Special Rapporteur spoke outside of Government, and even many within, acknowledged that the present system is deeply flawed by the absence of the reliable and systematic evidence required as a foundation for rational and informed decision-making. The observations about the unavailability of data in Saudi Arabia are of course not new. Economists and political scientists writing about the Kingdom consistently

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[3] World Bank Group, *Measuring Global Poverty: Report of the Commission on Global Poverty*, (Washington, DC, International Bank for Reconstruction and Development/The World Bank, 2017), p. 150.

[4] See http://hdr.undp.org/en/content/multidimensional-poverty-index-mpi.

[5] See François Bourguignon, "Absolute poverty, relative deprivation and social exclusion", Villa Borsig Workshop Series, 1999. Available from www.gdnet.org/BourgignonRelativeDeprivation.pdf.

[6] Martin Ravallion, "Poverty comparisons: a guide to concepts and methods", Living Standards Measurement Study, Working Paper No. 88 (Washington, DC, International Bank for Reconstruction and Development/The World Bank, 1992), p. 25.

[7] A recent policy analysis by the King Khalid Foundation called for the study of alternative options for calculating a relative poverty line for the Kingdom, and for setting a "sufficiency line" defining minimum reasonable living standards. Available from www.kkf.org.sa/en/Advocacy-Gov/Report/Pages/default.aspx. See also Martin Ravallion, "Poverty comparisons", pp. 29-33.

complain about the lack of public information and even the International Monetary Fund (IMF) has been highly critical.[10]

17. During his visit, the Special Rapporteur attempted to ascertain the Government's criteria for determining who is poor or "needy" and the number of persons estimated to be in the relevant categories. When the Special Rapporteur asked officials at the Labour and Social Development Ministry, they told the Special Rapporteur to enquire at the General Authority for Statistics. At an initial meeting with senior officials of the General Authority, the Special Rapporteur was informed that no relevant information could be provided to him because that information was owned by the Ministry. When the Special Rapporteur asked the Minister of Labour and Social Development personally for that information, he telephoned the President of the General Authority, who agreed to meet with the Special Rapporteur. At the resulting meeting, the Special Rapporteur repeated the request for the criteria used and the numbers in the relevant categories. The President replied that he would consider the request, but no information has since been forthcoming, despite the absolute centrality of that information to the present report.

18. The Special Rapporteur was told that the authorities are currently revising their definitions and means of measuring poverty. That is certainly necessary given the inconsistent and inadequate definitions and methodologies used to date. Relevant officials have, in cooperation with the World Bank and the Islamic Development Bank, proposed new approaches which, if endorsed by the Royal Court, will be used to calculate poverty in Saudi Arabia in the 2020 national census. It is essential that the Government makes public the new approach, and the resulting statistics. Until 2020, authorities have to rely on imperfect household surveys to estimate the number of poor and to assess the impact of the dramatic changes to the social protection system that are envisioned.

19. Given the impact that Vision 2030 will have on Saudi society, the lack of transparency about poverty and the associated challenges are deeply problematic, for several reasons. First, in order to set priorities in its anti-poverty policies, the Government needs to have a clearer understanding of the nature and extent of the problem. Second, accurate data are indispensable in order to evaluate the anticipated and actual impact of Vision 2030 policies on the poor. Third, transparency enables Saudi society to contribute to decision-making in relation to matters of definition, methodology and measurement. Fourth, such transparency and the broader dialogue it enables will greatly strengthen the design phase. Fifth, transparency allows the Government to be held to account for shortcomings and encourages continuing adjustment and adaptation to make sure that anti-poverty and related social rights objectives are met.

20. **Recognizing the Government's recent commitment to greater transparency, the Special Rapporteur recommends that the Government:**

(a) **Make public its current plans for defining and measuring poverty;**

(b) **Organize a public consultation in which Saudi citizens are given a meaningful opportunity to comment on the relevant proposals;**

(c) **Commit to publishing the poverty statistics that result from those data collection activities;**

(d) **Ensure that appropriate privacy protections are built into the data collection systems. It is not clear to the Special Rapporteur that any serious consideration has yet been given to that dimension, even though many officials assured him that it is an especially important concern in an Islamic society.**

[10] IMF, "Staff Report for the 2016 Article IV Consultation", 29 June 2016, para. 50. Available from www.imf.org/external/pubs/ft/scr/2016/cr16326.pdf.

B. Social protection in Saudi Arabia

21. While the Government now acknowledges the existence of poverty in Saudi Arabia, many officials continue to see it as an unavoidable and thus intractable social ill. That contradicts international commitments, including in the context of the 2030 Sustainable Development Agenda, to eliminate extreme poverty and ensure a crucial role in that endeavour for social protection systems. Although social protection is a generic term used to describe a diverse array of policy approaches (see A/69/297, para. 21), a recent Organization of Islamic Cooperation (OIC) report defines it as including contributory social insurance programmes, labour market programmes and non-contributory social assistance programmes.[11] The focus in the present report will be predominantly on non-contributory social assistance programmes that are mostly directed to the poorer segments of Saudi society.

22. The problems of lack of data and transparency discussed above also affect any discussion of social protection in Saudi Arabia. Before his mission, the Special Rapporteur consulted with a large number of international organizations, civil society organizations and academic experts, all of whom confirmed that it was exceedingly difficult to get an accurate picture of the Saudi social protection situation. Several international organizations have worked with the Government on matters of poverty eradication and social protection, but in most cases the organizations are bound by strict confidentiality agreements and can therefore not share their analyses with the Saudi public or the international community. To the Government's credit, key government actors in the area of social protection were open with the Special Rapporteur when discussing some of the challenges confronting the existing system.

23. Based on all available information,[12] the following picture of the existing social assistance system emerges. In the context of the National Poverty Reduction Strategy, the Government in 2006 initiated a Supplementary Support Programme to assist the poor. That was complemented in subsequent years by various other programmes. At the core of the social assistance programme for the poor are monthly and one-time cash transfers paid by the Ministry of Labour and Social Development under Royal Decree No. M/45 of 2006.[13] Orphans, persons with disabilities, the elderly, unsupported women and unsupported families are eligible for a maximum monthly amount of SRI 5,000, for a family of 15 individuals, and a maximum one-time payment of SRI 30,000. According to the Ministry of Labour and Social Development, over 877,000 Saudi households (some 2,400,000 individuals) receive such payments currently. According to the Ministry, half of the beneficiaries are single females (widows and divorcees) without children, which explains why 877,000 households equates to only 2,400,000 individuals. While the Government insisted that those women were mostly young divorcees without children, it seems more plausible that many of them might in fact have children who, for various reasons, are not taken into account for the purpose of social assistance payments.

24. In addition to the cash transfers, a range of other benefits are provided by the Government: emergency assistance; disability allowance; marriage funds; housing loans; unemployment benefits; home furnishing and renovation assistance; school bags and uniforms for students; payment of electricity bills; benefits for terminally ill patients; and

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[11] Report commissioned by the Standing Committee for Economic and Commercial Cooperation of the Organization of Islamic Cooperation (COMCEC), "Accessibility of vulnerable groups to social protection programmes in the OIC member countries", January 2016, p. 10. Available from www.mod.gov.tr/Lists/RecentPublications/Attachments/101/Accessibility%20of%20Vulnerable%20Groups%20to%20Social%20Protection.pdf.

[12] For the best publicly available resource in English on the current system of poverty alleviation and social protection in Saudi Arabia, see Talha Fadaak, *Female Poverty in Saudi Arabia: A study of poor female headed households, social policies and programmes in Jeddah City* (LAP Lambert Academic Publishing, 2012). A recent study in Arabic by the King Khalid Foundation in Riyadh also provides an overview of the system. Available from www.kkf...org.sa/ar/Advocacy/GovReport/Pages/default.aspx.

[13] See www.hoc.gov.sa/ViewSystemDetails.aspx?lang=en&SystemID=187&VersionID=202.

higher education support. There is also a range of loans and grants available from the Social Development Bank and National Charitable Fund. It is little wonder that, with such a plethora of potential benefits, most Saudis assume that no citizen could be left wanting. In addition, there are the activities of a great many charities, funded with some SRI 500 million by the Government in 2016 as well as by private donations. Despite the best intentions, the resulting hodgepodge of programmes managed by various ministries and public authorities, as well as charities, is inefficient, unsustainable, poorly coordinated and, above all, unsuccessful in providing comprehensive social assistance to those most in need.

25. In that context, it is relevant to mention that the Special Rapporteur's team visited households in the Ghubaira, Manfuhah and Al Ud neighbourhoods of Riyadh, many of which were headed by women. Many female-headed households in Saudi Arabia are beneficiaries of government cash transfers and other programmes, but government assistance is not sufficient in the absence of employment.[14] Given the insufficiency of government benefits, many female-headed households are reliant on charities and their extended family to survive. For example, the team met with a family that consisted of a divorced woman with four children, who did not receive cash assistance from the Government because her ex-husband had committed to paying her around SRI 1,000 per month, but in practice failed to meet his maintenance obligation. While in such cases it is possible to take legal action, there are many practical barriers, including the cost of a lawyer, the need to find a male guardian willing to accompany the woman to court, and the fear of retaliation by the (ex-) husband. The Special Rapporteur's team also visited a family where the male head of household was retired and ill. That family of ten had to rely on a retirement pension of SRI 2,800 per month and an additional food allowance from a charity of SRI 1,050 per month.

26. The Ministry of Economy and Planning was admirably candid with the Special Rapporteur about the challenges in the existing anti-poverty and social protection framework. Mention was made of the following issues: (a) the lack of a true understanding of the nature of poverty in the Kingdom; (b) weak targeting, overlaps and leakage in beneficiary coverage; (c) little account taken of geographic specificity and cultural variation; (d) social protection programmes not designed for graduation; (e) the lack of a common vision across institutions; (f) weak coordination and fragmentation within and across delivery institutions; (g) institutional complexity and conflicting mandates; (h) little to no involvement from the private sector; (i) an absence of arms-length monitoring and evaluation mechanisms across social protection programmes; and (j) an absence of financial and social impact assessment of programmes.[15] That is a severe self-indictment, and Vision 2030 and the accompanying reforms are aimed at remedying those problems.

27. One key element of Vision 2030 and accompanying policies is the need to reform the subsidy system. Until recently, Saudi Arabia spent almost 10 per cent of gross domestic product (GDP) on pre-tax energy subsidies.[16] That is one of the highest percentages among oil exporters in the Middle East and North Africa Region and the highest percentage among the Gulf Co-operation Council countries.[17] According to observers, it "has led to significant distortions in the Saudi economy, which, different from most other countries in the world,

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[14] The fact that government benefits are low compared to the cost of living is made apparent by comparing the maximum monthly cash transfer under Royal Decree No. M/45 of 2006 of SRI 5,000 for a family of 15 individuals to average household expenditure data from the Government's 2013 Household Expenditure and Income Survey. Unfortunately, the survey indicates only average expenditure and not expenditure per income bracket or otherwise disaggregated to show expenditure among vulnerable groups. However, table 3 on p. 27 of the 2013 survey indicates that an average Saudi household (only Saudis are eligible for cash benefits under art. 2 of the Royal Decree) of 6.9 persons in the Riyadh region has an average monthly expenditure of SRI 18,470. Available from www.stats.gov.sa/sites/default/files/household_expenditure_and_income_survey_2013.pdf.

[15] Those challenges are not uncommon for social assistance schemes in the Middle East and North Africa Region. See ESCWA, "Integrated social policy: towards a new welfare mix, Report V" (2014).

[16] Carlo Sdralevich and others, *Subsidy Reform in the Middle East and North Africa: Recent Progress and Challenges Ahead* (Washington, DC, IMF, 2014), p. 18.

[17] Ibid.

has witnessed declining energy efficiency over the last decades".[18] In addition, per capita water consumption is among the highest in the world in the Kingdom, and water subsidies benefit the rich far more than the poor. In its December 2016 Fiscal Balance Programme, the Government outlined additional planned subsidy reforms before 2020, by which time all consumers should be paying the reference export price for previously subsidized goods and services. Chatham House has referred to those subsidy reforms as "the most radical price reform the conservative kingdom had ever witnessed".[19]

28. Part of the savings from subsidy reform will be reinvested in a new cash transfer programme that focuses predominantly, although not exclusively, on the poorer segments of Saudi society. The programme is called the Household Allowance and was announced in December 2016. By 2020, subsidy reform is expected to save SRI 209 billion per year, while the Household Allowance will cost only SRI 60-70 billion, a saving of as much as two thirds. The new Household Allowance will provide cash transfers to compensate lower and middle-income households for the direct and indirect negative impact on living costs of the subsidy reforms.[20] All beneficiaries of the existing cash transfer system under Royal Decree No. M/45 of 2006 are supposed to be automatically enrolled. New beneficiaries can enrol using an online portal or by going to a social security office. The Household Allowance will be part of an overall Citizen Account system, constructed on the basis of greatly expanded data gathering capacities and the building of comprehensive databases designed to fill major existing knowledge gaps and bring together information currently held in widely dispersed places.

29. **Overall, the elimination of wasteful subsidies and the targeting of the poor and those most in need are praiseworthy objectives. Nevertheless, without entering into the many complexities and unknowns of the proposed reforms, there are various considerations and recommendations by the Special Rapporteur, which the Government might wish to take into account:**

(a) **The Government is in the process of developing a Social Protection Strategy together with the World Bank, at the same time as it is undertaking ambitious reforms of the existing social protection system. Consideration should be given to extending the very tight timetable for the introduction of the reforms. They are too important to fail, but the existing timetable seems unrealistically ambitious, especially taking into account that the Government is simultaneously rethinking its whole Social Protection Strategy. Experience from other countries shows that subsidy reforms and the introduction of cash transfer programmes have a major impact on society and can trigger a strong backlash. The Kingdom's 2016 experience of social unrest in response to reduced water subsidies, as well as inflationary pressures linked to subsidy reform,[21] suggest that caution should temper ambition. In the Middle East and North Africa Region, IMF has noted that successful subsidy reform requires "thorough preparation, including clear diagnostics and careful planning of the pace and breadth of reform";[22]**

(b) **Saudi citizens have not been meaningfully consulted about the details of either the Vision 2030 approach to social protection or the proposed Social Protection Strategy. Discussions to date have essentially taken place behind closed doors. Given that the reforms will have an enormous impact on Saudi society, including its poorer**

[18] See Steffen Hertog, "Challenges to the Saudi distributional State in the age of austerity", paper presented at the conference entitled "Saudi Arabia: domestic, regional and international challenges", Middle East Institute, National University of Singapore, 12-13 December 2016.

[19] Glada Lahn, *Fuel, Food and Utilities Price Reforms in the GCC: A Wake-up Call for Business* (London, Chatham House, June 2016), p. 2.

[20] Saudi Arabia, "Fiscal Balance Program: Balanced Budget 2020", p. 58. Available from http://vision2030.gov.sa/sites/default/files/attachments/BB2020_EN.pdf.

[21] "In the wake of an increase in petrol prices in January, alongside rises in electricity and water bills, year-on-year inflation rose to 4.1% in the first seven months of 2016, compared with 2.3% at end-2015", Economist Intelligence Unit, "Country report: Saudi Arabia, generated on November 16th 2016", p. 8.

[22] Carlo Sdralevich and others, *Subsidy Reform in the Middle East and North Africa*, p. xi.

segments, public consultations should be held in which individuals and civil society organizations can openly express their feedback on planned reforms. That is required as a matter of human rights (the right to political participation), as a matter of good planning (perfecting the design), and as a matter of ensuring essential public support. At present, despite the 2015 non-governmental organization (NGO) law,[23] there is almost no meaningful engagement with civil society or human rights groups;

(c) The approach to social protection reflected in Vision 2030 and the Social Protection Strategy mirrors that of the World Bank. While that approach has much to recommend it, the Social Protection Floor Initiative supported by the United Nations, the International Labour Organization (ILO) and the World Health Organization is more comprehensive, less focused on exclusionary concerns, and is rooted in human rights (see A/69/297). The Government would benefit greatly from inviting organizations such as ILO, the United Nations Children's Fund (UNICEF), UNDP and the Economic and Social Commission for Western Asia (ESCWA) to be involved in its plans for the reform of its social protection system;

(d) The Government should acknowledge the right to social protection as a human right. That would: (i) reinforce the Qur'anic injunction in relation to the obligations of the ruler and the rights of the poor and needy under Zakat;[24] (ii) signal that the dramatic market liberalization programme contained in Vision 2030 will be developed in a manner that is consistent with respect for the right to social protection; and (iii) give content to article 27 of the 1992 Basic Law of Governance by which the State guarantees the rights of the citizen and his family in cases of emergency, illness and disability, and in old age;

(e) The plans announced to date are important because they eliminate wasteful, inefficient and regressive subsidies and cushion the political and economic impact of the reforms. However, they do not yet add up to a coherent or comprehensive plan to achieve social protection for all those in need. They could not do so, since there has not yet been any systematic mapping of poverty or any detailed analysis of its characteristics in the Kingdom. While many of the existing social assistance and other entitlements need to be reformed, they should not simply be replaced by a single cash transfer system;

(f) Existing cash transfers under Royal Decree No. M/45 of 2006 do not target the poorest in any systematic sense, but rather focus on specific categories such as orphans and female-headed households. They reflect a traditional welfare rather than an empowerment approach and result in significant social spending on the non-poor (so-called "leakage"). In order to effectively reduce poverty in Saudi Arabia and to prevent wasteful and unjust spending of social welfare funds on the non-poor, newly designed social assistance measures should be directed towards the poorest in Saudi society. In the absence of income tax data or a poverty register, the Government is greatly hampered in any effort to design an equitable and effective social protection system;

(g) Decisions to deny social assistance to individuals should be able to be appealed to a well-designed judicial or quasi-judicial complaint mechanism, rather than being left to the unfettered discretion of the Ministry, tempered only by possible social media mobilization.

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[23] See Adam Coogle and Kristine Beckerle, "Dispatches: better late than never – Saudi Arabia approves NGO law", 2 December 2015. Available from www.hrw.org/news/2015/12/02/dispatches-better-late-never-saudi-arabia-approves-ngo-law.

[24] Verses 70:24 and 51:19 of the Qur'an assert that the poor have a just claim (*haqq*) to a share in wealth. Amy Singer, *Charity in Islamic Societies* (Cambridge, Cambridge University Press, 2008), p. 35.

C. Taxation policy in Saudi Arabia

30. Taxation is crucial to ensure the collection of the revenue necessary to fund social protection expenditure. One possible revenue stream that should be further explored is the collection of the personal zakat tax of 2.5 per cent by the Government. The 1951 Royal Decree No. 17/2/28/8634 allows for the levying of personal zakat and zakat on companies, but the General Authority for Zakat and Income Tax currently collects zakat from companies only. It will soon create an account for the payment of voluntary personal zakat to the General Authority, but if that were to be made obligatory it would significantly increase the revenue stream for social assistance. There is widespread avoidance of corporate zakat taxes and the Authority's plan to ensure more effective collection is an important step in reassuring the public that the payment of taxes and social protection are directly linked.

31. Taxation is also crucial as a redistributive tool to decrease economic inequality and enhance equal opportunities, both of which are important objectives from a human rights perspective (see A/HRC/29/31). While inequality levels have dropped since 2007, in large part because of redistributive policies adopted in the wake of the so-called "Arab Spring", they remain inordinately high. For the country as a whole, the Gini coefficient was 0.46, but in Riyadh the rate is 0.54. By way of comparison, the Gini coefficient of the United States of America, which is already high, is 0.39.[25] Redistributive policies designed to diminish inequality and thus enhance efficiency and fairness should focus on educational opportunities and social assistance for the poorest. Vision 2030 plans to impose a value added tax (VAT) of 5 per cent. Since VAT is clearly regressive, it is important not just to ensure appropriate exemptions for the items of most importance to the poor, but also to complement that initiative with a broader focus on building fairness into the taxation system.

32. Until recently, the steady flow of high oil revenues in Saudi Arabia made discussions about taxation policy largely optional. However, lower oil prices and the likelihood that they will not recover their former levels have incentivized the Kingdom to increase its non-oil revenues, including through taxation. Nevertheless, as the Government becomes more reliant on taxation to generate revenue, the more taxpayers will demand transparency concerning government finances and expenditures. In terms of budget transparency, Saudi Arabia is currently at the bottom of international rankings.[26] As the economy becomes more dependent on tax revenue, taxpayers will increasingly question the country's massive military spending and the small amounts devoted to social protection for society at large and for the poorer segments in particular. According to the authoritative Stockholm International Peace Research Institute (SIPRI) database, Saudi Arabia spent 13.7 per cent of its GDP on military expenditure in 2015, which equals US$ 2,778 per capita.[27] In meetings with government officials, the Special Rapporteur was told that the 2016 social security budget of Saudi Arabia was around SRI 31 billion, which is only 15 per cent of the SRI 205 billion that Saudi Arabia acknowledges spending on the military in 2016.[28] Independent observers suggest that the figure is actually much higher, and that social spending is less than 10 per cent of defence spending.[29] In a context of vast and relatively reliable oil revenues, lavish military spending might be seen to be less problematic. In an era of comprehensive belt-tightening and of efforts to develop balanced,

[25] Organization for Economic Cooperation and Development, "Inequality remains high in the face of weak recovery", November 2016, p. 6. Available from www.oecd.org/social/OECD2016-Income-Inequality-Update.pdf.

[26] Saudi Arabia has the lowest score in the 2015 Open Budget Index rankings, calculated by the International Budget Partnership. Available from www.internationalbudget.org/opening-budgets/open-budget-initiative/open-budget-survey/publications-2/rankings-key-findings/rankings/.

[27] See SIPRI Military Expenditure Database. Available from www.sipri.org/databases/milex.

[28] Saudi Arabia, "2017 Budget: public statement copy", p. 22.

[29] SIPRI puts the figure at SRI 327 billion in 2015. See "SIPRI Military Expenditure Database". Available from www.sipri.org/databases/milex.

equitable, sustainable and community-supported economic and social structures, social spending will need to be accorded much higher priority.

D. The role of charities[30]

33. In Saudi Arabia, coordination of social protection policy is a major challenge, not just among government departments, but also vis-à-vis the extensive network of charities that channel large amounts of money and carry important operational responsibilities.

34. The Ministry of Labour and Social Development provided charitable organizations with around SRI 500 million in 2016, and other government agencies provided significant additional funding. Charities also receive extensive donations from private individuals, often in the form of zakat payments. They play an important cultural role in the Kingdom, but are not independent of the Government, and demanding registration requirements stifle their potential for taking initiatives. Government funding increasingly targets specific priorities, but there is little meaningful oversight and monitoring of the effectiveness of charity spending. Various interlocutors criticized charities as being "amiable amateurs", providing "charitable" services without focusing on structural means to help their beneficiaries out of poverty. The culture of charities is only gradually beginning to change from service delivery to development.

35. The coverage that charities achieve is not comprehensive, systematic or evenly distributed. Many dealing with women seem more concerned to teach them sewing, embroidery, cooking and other traditional jobs than with giving them skills that are in serious demand in the labour market. In terms of government policy, the King Khalid Foundation has called for the creation of a ministerial committee to design and implement improved policies. Some such coordination mechanism is clearly needed. A charities commission could encourage greater autonomy, promote better coordination and stimulate reflection on the new policies required in the new world of Vision 2030.

IV. Specific issues

A. Relevance of human rights for reform

36. Just as the global 2030 Agenda for Sustainable Development is grounded in the Universal Declaration of Human Rights, so too should Vision 2030 be seen as unavoidably linked to human rights policies in the Kingdom.

37. However well-designed and well-packaged, the success of Vision 2030 will ultimately dependent on public support. The Government clearly acknowledges that, albeit within limits, as indicated by the unprecedented public relations campaign it has undertaken, and its limited experiments in consulting with some stakeholders in the process of drafting the Vision. However, even IMF, an organization that is concerned with economic viability rather than human rights, has noted that the crucial challenge in such reform contexts lies in "involving key stakeholders such as political parties, civil society, and the private sector".[31]

38. Public support and participation are not easy to achieve in a country in which there are no political parties, no national elections and significant restrictions on free speech, especially in relation to criticism of government policies. The Special Rapporteur's interlocutors either sought to justify the limitations imposed on the grounds of national security and the need to avoid the chaos engulfing some neighbouring countries, or to point out that important initiatives have been taken in recent years to promote and facilitate

[30] Charities, which report to the Ministry of Labour and Social Development, should be distinguished from foundations, which are set up by decree of the King and are independent from the Ministry of Labour and Social Development.

[31] Carlo Sdralevich and others, *Subsidy Reform in the Middle East and North Africa*, p. xi.

broader consultation. They pointed to the role of the Shura Council, the municipal elections and various other consultative bodies.

39. However, the most positive development is the rise of social media as a forum for less constrained public debate. One third of the Saudi population are active social media users, with Whatsapp being used by 27 per cent, Facebook by 25 per cent and Twitter by 20 per cent.[32] Because of its characteristics, the latter seems especially significant in terms of political commentary and campaigns. Social media have proved to be a potent tool and an important reminder to the Government of the need to listen to public opinion, especially in relation to social and economic policies and reform. However, the Government monitors social media very closely and has brutally repressed certain manifestations of opinion.[33] The role of social media has been confined to a safety valve and has not led to more formal opportunities for freely expressing views and debating policies.

40. Ultimately, the Government needs to accept increased political participation by the Saudi public as a matter of human rights as well as good policy and ensure that existing platforms for participation are protected and new channels allowed to open.

B. Women's rights

41. Vision 2030 calls Saudi women "a great asset" and acknowledges the role of the Government in assisting them to develop their talents and investing in their capabilities.[34] Women are more represented in universities than males and often outperform them in different spheres. However, the fact that they still make up a tiny percentage of the labour market, and are effectively prevented from performing a great many occupations, significantly constrains the economic potential and social development of Saudi Arabia. The Global Gender Gap Index, 2015, compiled by the World Economic Forum, ranks Saudi Arabia 134 out of 145 countries.[35] If it is to succeed fully, Vision 2030 should also be seen as a transformational opportunity to enhance gender equality, especially of women and girls in the lower income quintiles. As a party to the Convention on the Elimination of All Forms of Discrimination against Women, and in the light of its acceptance of relevant recommendations in the universal periodic review context, Saudi Arabia needs to attach much greater importance to ensuring the rights of women.

42. Before noting the continuing restrictions that have a negative impact on women's abilities to work, travel and engage fully as productive members of society outside of the household, it is very important to acknowledge that positive developments and changes in societal attitudes are taking place. Recent Saudi history shows that the lifting of traditional restrictions on women can greatly enhance their prospects for economic and social progress. For example, the decision to allow women to work in more areas of the private economy, including in the retail sector, has transformed public spaces and enabled a large number of women to enter the labour force.[36] Other recent steps to lift restrictions have also had both symbolic and practical impacts on the ability of women to participate in economic and social life in Saudi Arabia. They include the opening of the first mixed-gender campus

[32] See www.smartinsights.com/social-media-marketing/social-media-strategy/new-global-social-media-research/#sthash.mjcqfmWK.dpuf.

[33] See, for example, Amnesty International, "Saudi Arabia: journalist sentenced to five years in prison for tweets latest victim of crackdown", 25 March 2016. Available from www.amnesty.org/en/latest/news/2016/03/saudi-arabia-journalist-sentenced-to-five-years-in-prison-for-tweets-latest-victim-of-ruthless-crackdown/, and Human Rights Watch, "Saudi Arabia: intensified repression of writers, activists", 6 February 2017. Available from www.hrw.org/news/2017/02/06/saudi-arabia-intensified-repression-writers-activists.

[34] Saudi Arabia, "Vision 2030", p. 37. Available from http://vision2030.gov.sa/sites/default/files/report/Saudi_Vision2030_EN_0.pdf.

[35] See http://reports.weforum.org/global-gender-gap-report-2015/economies/#economy=SAU.

[36] Government figures, which have been disputed, claim that the employment of women in the private sector has increased from 55,000 in 2010 to 454,000 at the end of 2013. See Louise Redvers, "Keys to the Kingdom: the slow rise of Saudi women", 9 April 2015. Available from www.bbc.com/capital/story/20150408-slow-gains-for-saudi-women.

at the King Abdullah University of Science and Technology in 2009, the participation of Saudi women in the Olympic Games for the first time in 2012 and the admission of females to law practice since late 2013.

43. However, major challenges persist with regard to the human rights of women, and those challenges weigh even more heavily on women living in poverty.[37]

44. First, while the law no longer requires the permission of male guardians before women can work,[38] many employers still insist on such authorization and the Government has abdicated its responsibilities by not intervening. That puts women at the mercy of the employers' own preferences and their guardians' goodwill. Women from lower-income and less educated backgrounds face more challenges in convincing their guardians to allow them to work, especially in mixed gender workspaces.

45. Second, once employed, women from poorer backgrounds face additional obstacles. They may need someone to care for their children while they are at work. Hiring a migrant domestic worker is prohibitively expensive. Firms with more than 50 workers are required by law to provide day care, but that law is widely flouted. Because women are banned from driving and public transport is generally lacking, poorer women who want to work must rely on family and friends for transport or pay a high price for it. That is a big barrier to employment for such women.

46. Third, while public sector female employment is gradually increasing, it remains not only segregated but confined to a limited range of posts, even if prominent exceptions can be shown. There are no female judges or prosecutors and only 87 out of 963 diplomats are women. Women are, however, better represented in universities, and in the health and education sectors.

47. Fourth, women abandoned by their husbands often face major problems.[39] They can file for divorce, but court procedures can take years to conclude. Without a divorce agreement, social assistance is difficult to obtain and permission is still required from the husband to work and for other matters. While sharia law obliges the husband to maintain his family, an abandoned woman will have to go to court to realize her rights. That represents an impossible threshold for many poorer women.

48. Fifth, women still have very limited opportunities to use the formal political process to bring about change. Women have been able to vote and stand for election to chambers of commerce since 2005, and be candidates in municipal elections since 2015. There are 22 female members of municipal councils nationwide, and 20 per cent of those appointed by the King to the Shura Council are women. That remains a very narrow opening, however, and beyond it there is very little space for women to participate in public policymaking. Despite the 2015 NGO law, which the Government claims has increased the number of civil society organizations from 1,064 to 1,227, there are no NGOs in Saudi Arabia that are allowed to work on human rights, let alone women's rights, and only very few charities and foundations engage in public policy advocacy work. Neither the Human Rights Commission nor the National Society for Human Rights are truly independent of the Government, and neither takes a strong public stand in promoting rights for women.[40] The main space available for women to participate is on social media, especially Twitter.

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[37] For an excellent recent overview, see Human Rights Watch, *Boxed In: Women and Saudi Arabia's Male Guardianship System* (2016). Available from www.hrw.org/sites/default/files/report_pdf/saudiarabia0716web.pdf.

[38] See Sara Anabtawi, "Saudi women no longer need male consent to work – report", 13 May 2012. Available from www.arabianbusiness.com/saudi-women-no-longer-need-male-consent-work-report-457596.html#sthash.blVH1FOA.dpuf. See also Human Rights Watch, *Boxed In: Women and Saudi Arabia's Male Guardianship System*, p. 2.

[39] Ibid., p. 53.

[40] For example, in its third report on the human rights situation in the Kingdom of Saudi Arabia (2012), the National Society for Human Rights acknowledged the issue of women's access to their rights. The thrust of the analysis was to praise the King for giving women all their rights. There was little mention of the immense challenges that remained.

Campaigns such as #TogetherToEndMaleGuardianship[41] and #StopEnslavingSaudiWomen[42] have reached hundreds of thousands of followers in the Kingdom and beyond, and have had an effect on the public debate. In addition, privately developed applications such as "Know Your Rights" assist in educating women about their human rights.[43]

49. Most officials suggest that the Government is not opposed to abolishing the ban on driving or eliminating many of the guardianship restrictions, but they quickly add that important elements in society remain opposed. However, the Government cannot just remove itself from those debates. It has obligations to respect and promote the human rights of women, as acknowledged in the context of the universal periodic review, and it should seek to educate and inform the general public, especially in relation to any traditional and community practices that seek to deny basic rights to any group. It is also important to note that when systematic surveys of public opinion have been undertaken, a clear majority has in fact favoured letting women drive.

50. **The Special Rapporteur has the following specific recommendations to promote and protect women's rights, with an emphasis on areas where the socioeconomic reform agenda of Vision 2030 and the human rights of women can be mutually reinforcing:**

(a) **Education is the key to enabling women to participate in society as equal citizens. The Government should strictly enforce the law requiring all girls to attend primary school. There is still a higher percentage of girls than boys who do not complete primary school, but reliable data are scarce and, very problematically, are not disaggregated by sex;**[44]

(b) **The Government should enforce the 2012 rule that women no longer need a guardian's permission to work. It should issue clear directives to all employers prohibiting requests to show permission, and undertake a media campaign to vindicate women's right to work. That could easily begin with an affirmative statement by the Minister of Labour and Social Development. Employers who continue to request such permission from guardians should be prosecuted or fined;**

(c) **The Government should respect and protect the human right of all Saudis to freely express their opinion on social media, including in relation to women's rights. Calling online for equal rights for women is not a crime**[45] **and debate on the issue should be stimulated rather than censored. Where individuals promoting women's rights are threatened, the Government should act swiftly to protect them and make clear that such threats are unacceptable.**

C. Human rights of female migrant domestic workers

51. Migrant workers make up approximately one third of the total population of Saudi Arabia and perform many of the available private sector jobs. During his visit, the Special Rapporteur focused specifically on female domestic workers, of whom there are estimated

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[41] See India Ashak, "Saudi women launch Twitter campaign demanding end to male guardianship", 2 September 2016. Available from www.thetimes.co.uk/saudi-women-launch-twitter-campaign-demanding-end-male-guardianship-1574537.

[42] See www.dw.com/en/stopenslavingsaudiwomen-protesting-against-male-guardianship/av-35939277.

[43] See Dina al-Shibeeb, "Saudi lawyer's 'know your rights' app for women gets 50,000 subscribers", 29 November 2016. Available from http://english.alarabiya.net/en/media/digital/2016/11/29/Saudi-lawyer-s-know-your-rights-app-to-women-gets-50-000-subscribers-.html#sthash.blVH1FOA.dpuf.

[44] Ministry of Economy and Planning and UNDP, "Kingdom of Saudi Arabia: Millennium Development Goals 2013", p. 41. Available from www.undp.org/content/dam/undp/library/MDG/english/MDG%20Country%20Reports/Saudi%20Arabia/MDG%202013%20KSA.pdf?download.

[45] See Adam Withnall, "Samar Badawi: Saudi Arabia jails one of its most prominent activists for women's rights", *Independent*, 13 January 2016. Available from www.independent.co.uk/news/world/middle-east/samar-badawi-saudi-arabia-jails-one-of-its-most-prominent-activists-for-women-s-rights-a6809471.html.

to be over 3 million in Saudi Arabia.[46] Those women face non-payment of salaries, excessive working hours, verbal, mental, physical and sexual abuse,[47] and are among the poorest members of Saudi society.

52. There are several structural causes for those abuses. One is the *kafala* visa sponsorship system, which ties the residency permits (*iqama*) of the domestic workers to the employer (sponsor or "*kafeel*") for their contract period, thereby giving the employer tremendous power over the worker, a power that has been likened to a contemporary form of slavery.[48] While other Gulf countries have adopted reforms of the *kafala* system,[49] there are no indications that Saudi Arabia will change its system in any meaningful way in the foreseeable future.

53. A second cause is that female domestic workers are hired through recruitment agencies, which charge hefty fees, as high as SRI 20,000, which many employers illegally seek to pass on to the worker by deducting them from her salary. In other cases, female domestic workers are transferred from one employer to the next, because the original employer cannot afford to pay back the recruitment fee. Those transactions are often opaque and not accompanied by a formal transfer of the *iqama*, which makes it harder to track the whereabouts of women in that situation. They thus risk crossing the line into a form of human trafficking, which is criminalized in the Kingdom.

54. A third cause is the reliance of Saudi families on cheap foreign domestic workers, as well as the reliance of the female domestic workers on employment in the Kingdom. That ensures a steady flow of workers from various parts of the world to Saudi Arabia. The size of that migrant population complicates effective oversight in the country, although that is no excuse for the Government's failure to enforce existing rules.

55. The Government is responsible for guaranteeing full respect for the human rights of migrants and ensuring accountability in the case of rights violations. In 2013, it adopted improved regulations for domestic workers, but there is a chronic lack of enforcement. While the Ministry of Labour and Social Development claims to undertake inspections and investigate alleged violations, there are no publicly available statistics on its enforcement efforts and little tangible evidence of results.

56. The Ministry of Labour and Social Development now gives domestic workers a free SIM card upon arrival in Saudi Arabia, but, as with passports, many employers confiscate the SIM card. According to the Ministry, a hotline had received 165,095 calls from domestic workers, but it could provide no details of how many of those calls were from female domestic workers, the nature of the complaints, the number of cases resulting in enforcement actions, or the number of employers sanctioned for violating the regulations. The Special Rapporteur understands that government committees have recently been set up

[46] United States of America, Department of State, "Saudi Arabia 2015 Human Rights Report", p. 51. Available from www.state.gov/documents/organization/253157.pdf.

[47] See "Final Report of the investigating mission of the Committee on Overseas Workers' Affairs to Saudi Arabia, January 9-13, 2011". Available from https://centerformigrantadvocacy.files.wordpress.com/2012/06/report-of-congress-mission-to-saudi-arabia-on-the-ofw-condition.pdf; William Davison, "Ethiopia workers return from Saudi Arabia telling of abuse", 13 December 2013. Available from www.bloomberg.com/news/articles/2013-12-12/ethiopian-migrant-workers-return-from-saudi-with-tales-of-abuse; Rothna Begum, "Gulf States fail to protect domestic workers from serious violence", 16 October 2015. Available from www.hrw.org/news/2015/10/16/gulf-states-fail-protect-domestic-workers-serious-violence; Laetitia Bader and Rothna Begum, "Somali domestic workers at risk as Ramadan departures down", 11 June 2016. Available from www.hrw.org/news/2016/06/11/somali-domestic-workers-risk-ramadan-departures-down.

[48] See Migrant Forum Asia, "Reform of the kafala (sponsorship) system". Available from www.ilo.org/dyn/migpractice/docs/132/PB2.pdf; Human Rights Watch, "Saudi Arabia: steps toward migrant workers' rights", 15 November 2015. Available from www.hrw.org/news/2015/11/15/saudi-arabia-steps-toward-migrant-workers-rights; "Migration in the Gulf: open doors but different laws", *The Economist*, 8 September 2016. Available from www.economist.com/news/middle-east-and-africa/21706524-because-migrants-gulf-have-few-rights-locals-let-more-them-open.

[49] See www.migrant-rights.org/2016/11/qatars-kafala-reforms-a-ready-reckoner/.

to deal with civil disputes between employers and female domestic workers about contractual issues. However, few cases appear to have been handled by the new bodies to date.

57. The many bilateral agreements between Saudi Arabia and sending countries containing labour protections for female domestic workers cannot make up for the domestic enforcement gap. Foreign countries are not well placed to enforce those bilateral agreements and the plethora of agreements also contributes to the differential treatment of female domestic workers based on nationality.

58. Female domestic workers who flee from their employers often end up in embassy-run shelters. The Government has now opened its own shelters and wants them to be used instead. The Special Rapporteur visited one of the government-run shelters in Riyadh. According to Ministry of Labour and Social Development statistics, "there are currently nine such shelters for female domestic workers, and in 2015-2016, some 7,226 women stayed for an average of 15 days. According to the Government, only a small minority of those women had complaints about abuse by their employer or the non-payment of salaries. That claim contradicts other studies, which reveal much higher percentages. In the future, female domestic workers will be much worse off in government-run shelters than in those run by embassies unless the former provide essential advisory, counselling and other services, and the Government is prepared to be more transparent about the situation. It seems unlikely that will be achieved in the short term, and it is even less likely if the centres are privatized, as has been mooted.

59. Criminal prosecutions of employers for abuse are very rare, while female domestic workers often face criminal charges. According to statistics of the Congress of the Philippines, there were 358 Filipinas in prison, detention centres, under house arrest, or with pending cases in criminal court in Jeddah and Riyadh alone in the first half of 2015. Since a quarter to a third of migrant workers from the Philippines are female domestic workers according to those same statistics, it is safe to assume that a significant number of those women facing criminal charges are domestic workers. Moreover, female domestic workers, including those from countries such as Indonesia[10] and Sri Lanka,[11] have been executed in recent years and others currently face the death penalty.

60. **The Special Rapporteur makes the following specific recommendations:**

(a) **The Government should start a public information campaign reaffirming the human rights of female domestic workers and emphasizing the obligation of Saudi employers' to treat them with respect and dignity and to respect their human rights fully;**

(b) **The Government should enhance enforcement of the 2013 Regulation on Domestic Workers and publish statistics on measures taken. It should actively and publicly prosecute employers suspected of abuse of female domestic workers;**

(c) **Differentiated bilateral treaty protections for female domestic workers, and the 2013 Domestic Workers Regulation, should be replaced by a new chapter on domestic workers in the Labour Code that sets higher standards, uniformly applicable to female domestic workers of all nationalities;**

(d) **It is estimated that there are currently around 500,000 undocumented Indonesian domestic workers in the Kingdom, as a result of the cancellation of the agreement facilitating legal migration by Indonesia. An amnesty for those and other workers in a similarly situation should be considered.**

[10] See "Indonesia to stop sending domestic workers to Middle East – reports", *Guardian*, 5 May 2015. Available from www.theguardian.com/world/2015/may/05/indonesia-to-stop-sending-domestic-workers-to-middle-east-reports.

[11] See www.migrant-rights.org/2015/12/another-sri-lankan-domestic-worker-faces-execution-in-saudi/.

D. Human rights of non-Saudis living in poverty

61. The lack of data and transparency about poverty in Saudi Arabia is especially problematic in relation to non-Saudis who are not migrant workers. They include, among others, non-Saudis who come to the country on Hajj or Umrah visas and never leave (concentrated in and around Mecca and Medinah), those who enter the country illegally, refugees from surrounding countries and the children of those non-Saudis who are born in Saudi Arabia. According to various experts with whom the Special Rapporteur met, many of these non-Saudis live in poverty and they are among the most vulnerable people in the Kingdom. There is, for example, a large Yemeni population living in very poor conditions in tents near Jeddah, while certain poor neighbourhoods in the city consist largely of various African nationalities. However, the lack of data and transparency ensure that such population groups remain determinedly below the radar screen, which has very negative implications for policymaking and facilitates official denial of the extent of the problems.

62. The Special Rapporteur gained some insight into the situation of poor non-Saudis from a visit to Al Jihal neighbourhood in Jizan, a poor area long scheduled for demolition. The majority of the residents in that area are originally from Yemen, but they have lived in Saudi Arabia for decades and many of the younger residents were born there. The neighbourhood will be demolished, but under the demolition plan only Saudi homeowners will receive compensation. Yemenis with temporary residence permits, which they have had to renew every six months since the war with Yemen started, have to leave without receiving any compensation and are expected to find another place to live of their own accord. Children without residence permits are denied access to education and non-Saudis are often denied free medical treatment at hospitals, according to some of the residents with whom the Special Rapporteur met.

63. Senior officials of the King Salman Humanitarian Aid and Relief Centre explained to the Special Rapporteur that Saudi Arabia, which is not a State party to the 1951 Convention relating to the Status of Refugees, refers to its refugees as "visitors". According to the Centre, they receive visitor identity papers and have the freedom of movement, freedom to work and access to free health care and education. The officials claimed that there are currently 500,000 Yemenis and 300,000 Syrians in the country who make use of free primary health care and whose children attend free primary schools. The Government also claimed that the total number of Yemeni and Syrian students who are enrolled in public schools has reached 285,644 and 141,406 respectively. However, that seems rather implausible given that various other experts informed the Special Rapporteur about the many non-Saudis who have been in the country for decades, including from countries such as Egypt, Lebanon, the Syrian Arab Republic and Yemen, and do not have access to such free social services. That problem was confirmed during his visit to Al Jihal neighbourhood in Jizan.

64. The Special Rapporteur asked the Ministry of Labour and Social Development in writing whether any policies or programmes exist that explicitly address the situation of non-Saudis who are not migrant workers and are living in poverty. No answer has been received. It is, however, clear that under the existing cash transfer system of Royal Decree No M/45 of 2008, only Saudi nationals are eligible to receive benefits (art. 2). Beneficiaries of the new Household Allowance cash transfer system should also, with a few exceptions, be Saudi citizens residing in the country.[37] Charities indicated that they cannot assist poor non-Saudis with government money according to rules set by the Ministry of Labour and Social Development. The Special Rapporteur recalls that the International Convention on the Elimination of All Forms of Racial Discrimination, to which Saudi Arabia acceded in 1997, requires it to guarantee human rights, including the right to social security, without distinction as to race, colour, or national or ethnic origin.[38] Differential treatment between citizens and non-citizens is permissible only insofar as it is applied

[37] Saudi Arabia, "Social Reform Program: Balanced Budget 2020", p. 93.

[38] See International Convention on the Elimination of All Forms of Racial Discrimination, art. 5.

pursuant to a legitimate aim and is proportional to the achievement of such an aim.[74] In the light of these obligations, the Government needs to urgently address the situation of poor non-Saudis. There are many ways in which a policy for that group can be shaped, even if noncitizens do not receive all of the same entitlements under the social protection system as Saudi citizens.

69. **The Special Rapporteur therefore urges the Government:**

(a) **To make public existing statistics about poverty among non-Saudis and to undertake additional studies as necessary;**

(b) **To formulate policies explicitly aimed at guaranteeing the right to an adequate standard of living for poor non-Saudis;**

(c) **To invite the Special Rapporteur on the human rights of migrants to Saudi Arabia for a country visit.**

V. Conclusion and recommendations

66. **Saudi Arabia is undergoing an economic, social and cultural transformation and Vision 2030 reflects an ambitious and deeply transformative agenda, driven by a combination of economic necessity, social evolution and bold political leadership. In the context of the Vision 2030 agenda, the Special Rapporteur urges the Government, together with Saudi society, to reassess both its human rights and anti-poverty policies in the light of the intrinsic relationship between the two. Specific recommendations in that respect are contained in the body of the report and are not repeated here.**

67. **The Special Rapporteur encourages the Government to build on his visit by engaging in an open debate with the international human rights community. It should follow through on the undertaking made during his visit to invite other United Nations special procedure mandate holders and international human rights NGOs. It is also extremely important for Saudi Arabia to join the overwhelming majority of States, as soon as possible, by ratifying both the International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights.**

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[74] See Committee on the Elimination of Racial Discrimination, general recommendation No. 30 (2004) on discrimination against non-citizens, para. 4.